S T A T E O F N E W Y O R K

S. 8090 A. 11372

S E N A T E - A S S E M B L Y

June 7, 2010

IN SENATE -- Introduced by COMMITTEE ON RULES -- (at request of the Governor) -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

IN ASSEMBLY -- Introduced by COMMITTEE ON RULES -- (at request of the Governor) -- read once and referred to the Committee on Ways and Means

AN ACT

to amend the public health law, the state finance law, and the elder law, in relation to various public health programs; to amend the elder law, in relation to the elderly pharmaceutical insurance program; and to repeal certain provisions of the public health law and the state finance law relating thereto (Part A); in relation to general hospital indigent care pools, and preferred drug programs; to amend the public health law, in relation to reimbursements; to amend the social services law and the public health law, in relation to prescription drug coverage for needy persons; to amend the general business law and the social services law, in relation to authorizing moneys paid in advance for funeral merchandise or services for family members; to amend the social services law, in relation to authorizing the commissioner of health to assume responsibility for transportation costs; to amend the public health law, in relation to covering medically necessary orthodontia; to amend the social services law, in relation to eligibility for medical assistance; to amend the public health law, in relation to general hospital reimbursement rate periods; to amend part C of chapter 58 of the laws of 2005 amending the public health law and other laws relating to authorizing reimbursements for expenditures made by social services districts for medical assistance, in relation to medicaid services; to amend part A of chapter 57 of the laws of 2006 amending the social services law relating to medically fragile children, in relation to the effectiveness of provisions; to amend the social services law, in relation to participation in certain federal medical assistance programs; to amend chapter 33 of the laws of 1998 amending the social services law relating to authorizing payment of Medicare part B premiums for certain Medicaid recipients, in relation to making the provisions of such chapter permanent; to amend the public health law, in relation to residential health care facilities; to amend part D of chapter 58 of the laws of 2009 amending the public health law and other laws relating to residential

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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health care facilities, in relation to hospital reimbursement provisions; and providing for the repeal of certain provisions upon expiration thereof (Part B; to authorize funding for the Consolidated Local Street and Highway Improvement Program (CHIPS) and Marchiselli program for state fiscal year 2010-2011; and to amend chapter 329 of the laws of 1991, amending the state finance law and other laws relating to the establishment of the dedicated highway and bridge trust fund, in relation to funding therefor (Part C); to amend the navigation law, in relation to the authorized reimbursement rate paid to governmental entities (Part D); to amend the executive law, in relation to reimbursement for expenditures made by the office of children and family services and providing for the repeal of such provisions upon expiration thereof (Part E); and to amend the state finance law, in relation to the school tax relief fund (Part F)

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. This act enacts into law major components of legislation which are necessary to implement the state fiscal plan for the 2010-2011 state fiscal year. Each component is wholly contained within a Part identified as Parts A through F. The effective date for each particular provision contained within such Part is set forth in the last section of such Part. Any provision in any section contained within a Part, including the effective date of the Part, which makes reference to a section "of this act", when used in connection with that particular component, shall be deemed to mean and refer to the corresponding section of the Part in which it is found. Section three of this act sets forth the general effective date of this act.

PART A

Section 1. The title heading of title 1-A of article 24 of the public health law, as amended by chapter 300 of the laws of 1995, is amended to read as follows:

[BREAST] CANCER DETECTION AND EDUCATION PROGRAM[; OVARIAN CANCER INFORMATION PROGRAM]

S 2. Section 2405 of the public health law, as added by chapter 328 of the laws of 1989, subdivision 1 as amended by chapter 554 of the laws of 2002 and paragraphs (a) and (d) of subdivision 2 as amended by chapter 515 of the laws of 2003, is amended to read as follows:

S 2405. [Breast cancer] CANCER detection and education program; establishment. 1. There is hereby created within the department the [breast] cancer detection and education program, also known as the [healthy women partnership] CANCER SERVICES PROGRAM. This program is established to promote screening and detection of [breast] cancer among unserved or underserved populations, to educate the public regarding [breast] cancer and the benefits of early detection, and to provide counseling and referral services. For purposes of this section, "unserved or underserved populations" shall mean persons having inadequate access and financial resources to obtain [breast] cancer screening and detection services, including persons who lack health insurance or whose health insurance coverage is inadequate or who cannot meet their deductible obligations for purposes of accessing coverage under their health insurance.

2. The program shall include:

(a) establishment of a statewide public education and outreach campaign to publicize [breast] EVIDENCE BASED cancer detection and education services, such campaign shall include: general community education, outreach to specific underserved populations, EVIDENCE BASED clinical [breast] cancer screening services [and follow-up care, information on the extent of coverage for such services by health insurance, the medical assistance program and other public and private programs], and an informational summary that shall include an explanation of the importance of clinical [breast] examinations[, breast-self-examinations and mammography,] AND what to expect during [a] clinical [breast examination] EXAMINATIONS and [mammography, and how to perform breast-self-examinations] CANCER SCREENING SERVICES;

(b) provision of grants to approved organizations under section twenty-four hundred six of this title;

(c) compilation of data concerning the [breast] cancer detection and education program and dissemination of the data to the public; and

(d) development of professional education programs including the benefits of early detection of [breast] cancer[,] AND clinical [breast] examinations [and breast-self-examinations], the recommended frequency of clinical [breast] examinations[, breast-self-examinations,] and [mammography] CANCER SCREENING SERVICES, and professionally recognized best practices guidelines.

S 3. Subdivisions 2 and 3 of section 2406 of the public health law are REPEALED.

S 4. Section 2409 of the public health law, as added by chapter 275 of the laws of 1995, is REPEALED.

S 5. Subdivisions 2 and 3 of section 95-a of the state finance law, as added by chapter 275 of the laws of 1995, are amended to read as follows:

2. Such fund shall consist of all monies appropriated [for the purpose of] TO such fund and any grant, gift or bequest made to the [breast cancer detection and education program advisory council] FUND.

3. Monies of the fund shall be available [to the breast cancer detection and education program advisory council] for the purposes of the [New York state innovation in breast] cancer [early] detection and [research awards] EDUCATION program, pursuant to section twenty-four hundred [nine] FIVE of the public health law.

S 6. Subdivision 3-a of section 2407 of the public health law is REPEALED.

S 7. Subdivisions 1, 4, 5 and 6 of section 2406 of the public health law, subdivision 1 as amended by chapter 176 of the laws of 2006, subdivision 4 as amended and subdivision 5 as renumbered by chapter 334 of the laws of 1990, subdivision 5 as added by chapter 328 of the laws of 1989, and subdivision 6 as added by chapter 323 of the laws of 1995, are amended to read as follows:

1. The commissioner[, in consultation with the breast cancer detection and education program advisory council established pursuant to section twenty-four hundred seven of this title,] shall make grants within the amounts appropriated to approved organizations[, as defined in subdivision three of this section,] for the provision of services relating to the EVIDENCE BASED screening and detection of [breast] cancer as part of this program. Such services shall include but not be limited to:

(a) promotion and provision of early detection of [breast] cancer, including [mammography,] clinical [examination, and breast self-examination] EXAMINATIONS AND CANCER SCREENING SERVICES;

(b) provision of counseling and information on treatment options and referral for appropriate medical treatment;
(c) dissemination of information to unserved and underserved populations, to the general public and to health care professionals concerning [breast] cancer, the benefits of early detection and treatment, and the availability of [breast] cancer screening services;
(d) identification of local [breast] cancer screening services within the approved organization's region;
(e) provision of information, counseling and referral services to individuals diagnosed with [breast] cancer; and
(f) provision of information regarding the availability of medical assistance, including medical assistance under paragraph (v) of subdivision four of section three hundred sixty-six of the social services law, to an individual who requires treatment for [breast, cervical, colon or prostate] cancer.
[4.] 2. The commissioner[, in consultation with the breast cancer detection and education program advisory council,] shall give notice and provide opportunity [for organizations described in subdivision three of this section] to submit applications to provide [breast] cancer detection and education programs. In order to be considered for a grant to provide [breast] cancer detection and education programs, applicants must show evidence of the following:
(a) ability to provide and to ensure consistent and quality [breast] cancer detection services;
(b) expertise in [breast] cancer detection and treatment;
(c) capacity to coordinate services with physicians, hospitals and other appropriate local institutions or agencies;
(d) ability to provide [breast] cancer detection and education services to unserved or underserved populations; and
(e) ability to implement a [breast] cancer detection and education program in accordance with the standards specified in subdivision [five] THREE of this section.
Applications shall be made on forms provided by the commissioner. [The breast cancer detection and education program advisory council shall review and evaluate applications and make recommendations to the commissioner for approval of grants to organizations to provide breast cancer detection and education programs.]
[5.] 3. The commissioner[, in consultation with the breast cancer detection and education program advisory council,] shall develop standards for the implementation of [breast] cancer detection and education programs by approved organizations which shall ensure the following:
(a) integration of the approved organization with existing health care providers;
(b) maximizing third party reimbursement;
(c) provision of services to unserved or underserved populations.
[6.] 4. Within the amounts of state or federal funds appropriated for [cervical] cancer early detection and diagnosis, approved organizations may be authorized by the department to provide such services for populations served pursuant to this title. Early detection services shall include, but not be limited to, complete [pelvic] examinations, [pap smears,] EVIDENCE BASED SCREENING, patient education, counseling, follow-up and referral.
S 8. Section 2406-a of the public health law, as added by chapter 623 of the laws of 2007, is amended to read as follows:
S 2406-a. Grants to community-based organizations. 1. The commissioner[, in consultation with the breast and cervical cancer detection and

education program advisory council established pursuant to section twenty-four hundred seven of this title,] shall make grants within any such amount as may be appropriated specifically for community-based organizations for the provision of counseling, education and outreach programs for persons diagnosed with breast cancer.

2. For the purposes of this section, "community-based organizations" shall mean grass roots, free-standing organizations in which breast cancer survivors hold significant decision-making responsibility, and which offer a broad range of breast cancer education and support services free of charge.

3. The commissioner[, in consultations with the breast and cervical cancer detection and education program advisory council,] shall provide notice and opportunity for community-based organizations to submit applications to provide post-diagnosis breast cancer counseling, education and outreach programs. Such applications shall be on forms established by the commissioner. [The breast and cervical cancer detection and education program advisory council shall review and evaluate applications submitted pursuant to this subdivision and shall make recommendations thereon to the commissioner for approval of grants to community-based organizations for the provision of post-diagnosis breast cancer counseling, education and outreach programs.]

S 9. Intentionally omitted.

S 10. Intentionally omitted.

S 11. Section 2799-f of the public health law, as added by chapter 114 of the laws of 2004, is amended to read as follows:

S 2799-f. Comprehensive care centers for eating disorders; established. [1.] The commissioner shall [facilitate the development, and] provide for the public identification[,] of comprehensive care centers for persons with eating disorders[. The development and identification of such centers shall be] for the purposes of:

[(a)] 1. Promoting the [development and] operation of a continuum of comprehensive, coordinated care for persons with eating disorders;

[(b)] 2. Promoting ready access to information, referral and treatment services on eating disorders for consumers, health practitioners, providers and insurers, with access in every region of the state;

[(c)] 3. Promoting community education, prevention and patient entry into care; and

[(d)] 4. Promoting and coordinating regional and statewide research efforts into effective methods of education, prevention and treatment, including research on the various models of care.

[2. In order to identify such comprehensive care centers, the commissioner shall issue a request for applications ("hereinafter referred to in this section as RFA"). The form and content of such RFA shall be prepared with input from individuals and organizations who at a minimum are representative of health care practitioners and providers with expertise in the care of persons with eating disorders as well as from persons and families with experience in the diagnosis and treatment of these disorders. Such RFA shall be issued not later than one hundred twenty days following the effective date of this article.]

S 12. Paragraph (d) of subdivision 1 of section 2799-g of the public health law, as added by chapter 114 of the laws of 2004, is amended to read as follows:

(d) The applicant meets such additional criteria as [is specified in the RFA] ARE ESTABLISHED BY THE COMMISSIONER.

S 13. Subdivision 2 of section 2799-h of the public health law, as added by chapter 114 of the laws of 2004, is amended to read as follows:

2. The commissioner's [written notice to applicants, which shall be provided no later than ninety days following the receipt of a satisfactory application, shall identify the applicant as a state-identified] IDENTIFICATION OF A comprehensive care center for eating disorders under this article[, provided however that such notice] shall be valid for not more than a two year period from the date of issuance. The commissioner may reissue such [written notices] IDENTIFICATIONS for subsequent periods of up to two years, provided that the comprehensive care center has notified the commissioner of any material changes in structure or operation based on its original [RFA submission] APPLICATION, or since its last written notice by the commissioner, and that the commissioner is satisfied that the center continues to meet the criteria required pursuant to this article.

S 14. Sections 2799-j and 2799-l of the public health law are REPEALED.

S 15. Section 95-e of the state finance law, as added by chapter 114 of the laws of 2004, is REPEALED.

S 16. Section 207 of the public health law, as added by chapter 414 of the laws of 2005, subdivision 1 as amended by chapter 471 of the laws of 2007, paragraph (f) of subdivision 1 as added by chapter 570 of the laws of 2008 and paragraph (f) of subdivision 1 as added by chapter 573 of the laws of 2008, is amended to read as follows:

S 207. Health care and wellness education and outreach program. 1. There is hereby created within the department the health care and wellness education and outreach program. The department [shall] MAY conduct education and outreach programs for consumers, patients, and health care providers relating to any health care matters the commissioner deems appropriate and:

(a) Various health conditions, diseases and health care procedures and treatment options, INCLUDING BUT NOT LIMITED TO THOSE FOR BREAST, CERVICAL, COLORECTAL, PROSTATE, TESTICULAR, SKIN, AND OVARIAN CANCER, SHAKEN BABY SYNDROME, REFLEX SYMPATHETIC DYSTROPHY SYNDROME AND POST-POLIO SEQUELAE.

(b) Recommended preventative and wellness practices and services, including EVIDENCE BASED age and gender appropriate testing and screening exams and immunization schedules.

(c) Lymphedema, an abnormal swelling of the extremities including the causes and symptoms of lymphedema, the value of early detection, possible options for treatment including their benefits and risks, and other relevant information and the recommendation that hospitals treating breast cancer patients implement a lymphedema alert program by placing a bright pink wristband on the patient's affected arm.

(d) The need and importance of organ and tissue donation, including information about being registered as an organ and tissue donor and executing documents of gift under article forty-three of this chapter.

(e) The need and importance for consumers and patients to have an advance directive, particularly a health care proxy, and the need and importance for health care providers to play a leadership role in discussing end-of-life care preferences and values with patients and to provide patients with health care proxy forms.

(f) Uterine fibroids, an abnormal growth that occurs in the uterus, including the causes and symptoms of uterine fibroids, the value of early detection, possible options for treatment including their benefits and risks, information on the elevated risk for minority women and other relevant information.

[(f)] (G) Improving birth outcomes, including the importance of preconceptional care, early prenatal care, considerations of health risks during pregnancy, considerations of benefits and risks of labor and delivery options including, but not limited to, vaginal and cesarean section delivery, elective or repeat cesarean sections, and appropriate use of drugs during delivery.

2. Programs under this section, dealing with one or more subjects, may include but not be limited to any of the following elements:

(a) educational and informational materials in print, audio, visual, electronic or other media;

(b) public service announcements and advertisements; and

(c) establishment of toll-free telephone hotlines and electronic services to provide information.

3. The department [shall] MAY produce, make available to others for reproduction, or contract with others to develop such materials mentioned in this section as the commissioner deems appropriate. These materials shall be made available to the public free of charge as appropriate or for a fee under certain circumstances. The commissioner may require where appropriate any health care provider to make these materials available to patients.

4. In exercising any of his or her powers under this section, the commissioner [shall] MAY consult with appropriate health care professionals, providers, consumers, and patients or organizations representing them.

5. The commissioner shall ensure that all information and materials produced pursuant to this section are maintained and updated to reflect best practice recommendations.

6. The commissioner may appoint as appropriate advisory councils relating to various matters that are or are proposed to be the subjects of programs under this section. All such councils shall include representation of health care professionals, providers, consumers, patients and other appropriate interests. The members of the councils shall receive no compensation for their services, but shall be allowed their actual and necessary expenses incurred in performance of their duties.

7. In addition to state funds appropriated for programs under this section, the commissioner may accept grants from public or private sources for these programs. The commissioner, in administering this section, shall seek to coordinate the department's programs with other public and private programs, and may undertake joint or cooperative programs with other public or private entities.

8. The commissioner may make rules and regulations necessary and appropriate for implementation of this section.

S 17. Article 43-C of the public health law is REPEALED.

S 18. Section 2745 of the public health law is REPEALED.

S 19. Paragraph (c) of subdivision 3 of section 242 of the elder law, as amended by section 4 of part A of chapter 58 of the laws of 2005, is amended to read as follows:

(c) (1) The fact that some of an individual's prescription drug expenses are paid or reimbursable under the provisions of the medicare program shall not disqualify an individual, if he or she is otherwise eligible, from receiving assistance under this title. In such cases, the state shall pay the portion of the cost of those prescriptions for qualified drugs for which no payment or reimbursement is made by the medicare program or any federally funded prescription drug benefit, less the participant's co-payment required on the amount not paid by the medicare program. [In addition, the participant registration fee charged to

eligible program participants for comprehensive coverage pursuant to section two hundred forty-seven of this title shall be waived for the portion of the annual coverage period that the participant is also enrolled as a transitional assistance beneficiary in the medicare prescription drug discount card program, authorized pursuant to title XVIII of the federal social security act, provided that: (i) any sponsor of such drug discount card program has signed an agreement to complete coordination of benefit functions with EPIC, and has been endorsed by the EPIC panel; or (ii) any exclusive sponsor of such drug discount card program authorized pursuant to title XVIII of the federal social security act that limits the participants to the medicare prescription drug discount card program sponsored by such exclusive sponsor, shall coordinate benefits available under such discount card program with EPIC.]

(2) COVERAGE UNDER THIS PARAGRAPH SHALL BE AVAILABLE ONLY AFTER THE PARTICIPANT HAS FIRST EXHAUSTED THE FIRST TWO LEVELS OF APPEAL AVAILABLE UNDER PART D OF TITLE XVIII OF THE FEDERAL SOCIAL SECURITY ACT AND THE APPEAL HAS BEEN DENIED. DURING THE COVERAGE DETERMINATION AND APPEAL PERIOD, THE ELDERLY PHARMACEUTICAL INSURANCE COVERAGE PROGRAM SHALL PROVIDE UP TO A NINETY DAY SUPPLY OF THE PRESCRIBED MEDICATION, OR SUCH LESSER SUPPLY AS SPECIFIED ON THE PRESCRIPTION, IF: (I) THE PHARMACIST NOTIFIES THE PRESCRIBER THAT THE PARTICIPANT'S MEDICARE PART D PLAN AND THE ELDERLY PHARMACEUTICAL INSURANCE COVERAGE PROGRAM HAVE DENIED PAYMENT FOR THE PRESCRIBED MEDICATION AND THAT IF THE PRESCRIBER DOES NOT CHOOSE TO CHANGE THE PRESCRIPTION TO A DRUG THAT IS COVERED BY THE PARTICIPANT'S MEDICARE PART D PLAN, A MEDICARE PART D APPEAL MUST BE PURSUED; AND (II) THE PRESCRIBER NOTIFIES THE ELDERLY PHARMACEUTICAL INSURANCE COVERAGE PROGRAM OF THE PRESCRIBER'S INTENT TO PROVIDE NECESSARY INFORMATION AND COOPERATION IN THE PURSUIT OF THE MEDICARE PART D APPEAL. IN INSTANCES WHERE THE PHARMACIST IS UNABLE TO IMMEDIATELY REACH THE PRESCRIBER, THE ELDERLY PHARMACEUTICAL INSURANCE COVERAGE PROGRAM SHALL, UPON THE REQUEST OF THE PHARMACIST, AUTHORIZE A THREE DAY EMERGENCY SUPPLY OF THE PRESCRIBED MEDICATION. THE ELDERLY PHARMACEUTICAL INSURANCE COVERAGE PROGRAM SHALL AUTHORIZE SUCH ADDITIONAL NINETY DAY SUPPLIES OF THE PRESCRIBED MEDICATION, OR SUCH LESSER SUPPLY AS SPECIFIED ON THE PRESCRIPTION, AND SUCH ADDITIONAL THREE DAY EMERGENCY SUPPLIES AS REQUIRED TO ENSURE COVERAGE OF THE PRESCRIBED MEDICATION DURING THE PENDENCY OF THE MEDICARE PART D APPEAL.

(3) The participant registration fee charged to eligible program participants for comprehensive coverage pursuant to section two hundred forty-seven of this title shall be waived for the portion of the annual coverage period that the participant is also enrolled as a full subsidy individual in a prescription drug or MA-PD plan under Part D of title XVIII of the federal social security act.

S 19-a. Subdivision 6 of section 250 of the elder law, as added by section 31 of part A of chapter 58 of the laws of 2008, is amended to read as follows:

6. (a) The EPIC program shall be the payor of last resort for individuals qualified in both the EPIC program and title XVIII of the federal social security act (Medicare). For such individuals, no reimbursement shall be available under EPIC for covered drug expenses except:

(i) where a prescription drug plan authorized by Part D of the federal social security act (referred to in this subdivision as a Medicare Part D plan) has approved coverage and EPIC has an obligation under this title to pay a portion of the participant's cost-sharing responsibility under Medicare Part D; or

(ii) where the provider pharmacy has certified that[: (1)] a Medicare Part D plan has denied coverage[, and (2) either, after consultation with the prescriber, the prescriber has declined to revise the prescription to a drug that would be covered by the Medicare Part D plan, or the provider pharmacy has been unable to contact the prescriber].

(b) If the provider pharmacy certifies as set forth in subparagraph (ii) of paragraph (a) of this subdivision, the EPIC program shall pay for the drug as the primary payor[. If determined by the EPIC program to be practical and cost-effective, the program, or its contractor, shall attempt to obtain Medicare Part D coverage of the drug by initiating a Medicare Part D appeal. If the initial appeal is denied by the Medicare Part D plan, the EPIC program shall pursue additional levels of Medicare Part D appeals when practical and cost-effective] UPON A SHOWING OF COMPLIANCE WITH THE NOTIFICATION AND APPEAL PROVISIONS OF SUBPARAGRAPH TWO OF PARAGRAPH (C) OF SUBDIVISION THREE OF SECTION TWO HUNDRED FORTY-TWO OF THIS TITLE.

S 20. Article 27-I of the public health law is REPEALED.

S 21. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2010; provided however, that sections nineteen and nineteen-a of this act shall take effect October 1, 2010.

PART B

Section 1. Notwithstanding paragraph (c) of subdivision 10 of section 2807-c of the public health law, subdivision 2-b of section 2808 of the public health law, section 21 of chapter 1 of the laws of 1999, and any other contrary provision of law, in determining rates of payments by state governmental agencies effective for services provided on and after April 1, 2010, for inpatient and outpatient services provided by general hospitals, for inpatient services and adult day health care outpatient services provided by residential health care facilities pursuant to article 28 of the public health law, except for residential health care facilities that provide extensive nursing, medical, psychological and counseling support services to children, for home health care services provided pursuant to article 36 of the public health law by certified home health agencies, long term home health care programs and AIDS home care programs, and for personal care services provided pursuant to section 365-a of the social services law, the commissioner of health shall apply zero trend factor projections attributable to the 2010 calendar year in accordance with paragraph (c) of subdivision 10 of section 2807-c of the public health law, provided, however, that such zero trend factor projections for such 2010 calendar year shall also be applied to rates of payment for personal care services provided in those local social services districts, including New York city, whose rates of payment for such services are established by such local social services districts pursuant to a rate-setting exemption issued by the commissioner of health to such local social services districts in accordance with applicable regulations, and provided further, however, that for rates of payment for assisted living program services provided on and after April 1, 2010, trend factor projections attributable to the 2010 calendar year shall be established at zero percent.

S 2. Subparagraph (v) of paragraph (b) of subdivision 35 of section 2807-c of the public health law, as added by section 2 of part C of chapter 58 of the laws of 2009, is amended to read as follows:

(v) Such regulations [may] SHALL incorporate quality related measures pertaining to potentially preventable complications and re-admissions (PPRS) AND PROVIDE FOR RATE ADJUSTMENTS OR PAYMENT DISALLOWANCES RELATED TO PPRS, WHICH SHALL BE CALCULATED IN ACCORDANCE WITH METHODOLOGIES AS DETERMINED BY THE COMMISSIONER, PROVIDED, HOWEVER, THAT SUCH METHODOLOGIES SHALL BE BASED ON A RISK ADJUSTED COMPARISON OF THE ACTUAL AND THE EXPECTED NUMBER OF PPRS IN A GIVEN HOSPITAL AND WITH BENCHMARKS ESTABLISHED BY THE COMMISSIONER AND PROVIDED FURTHER THAT SUCH RATE ADJUSTMENTS OR PAYMENT DISALLOWANCES SHALL RESULT IN AN AGGREGATE REDUCTION IN MEDICAID PAYMENTS OF NO LESS THAN THIRTY-FIVE MILLION DOLLARS FOR THE PERIOD JULY FIRST, TWO THOUSAND TEN THROUGH MARCH THIRTY-FIRST, TWO THOUSAND ELEVEN AND NO LESS THAN FORTY-SEVEN MILLION DOLLARS FOR THE PERIOD APRIL FIRST, TWO THOUSAND ELEVEN THROUGH MARCH THIRTY-FIRST, TWO THOUSAND TWELVE; AND PROVIDED FURTHER THAT THE REGULATIONS PROMULGATED PURSUANT TO THIS SUBPARAGRAPH SHALL BE EFFECTIVE ON AND AFTER JULY FIRST, TWO THOUSAND TEN, AND PROVIDED FURTHER, HOWEVER, THAT FOR THE PERIOD JULY FIRST, TWO THOUSAND TEN THROUGH MARCH THIRTY-FIRST, TWO THOUSAND TWELVE, SUCH RATE ADJUSTMENTS OR PAYMENT DISALLOWANCES SHALL NOT APPLY TO BEHAVIORAL HEALTH PPRS; OR TO READMISSIONS THAT OCCUR ON OR AFTER FIFTEEN DAYS FOLLOWING AN INITIAL ADMISSION. BY NO LATER THAN APRIL FIRST, TWO THOUSAND ELEVEN THE COMMISSIONER SHALL ENTER INTO CONSULTATIONS WITH REPRESENTATIVES OF THE HEALTH CARE FACILITIES SUBJECT TO THIS SECTION REGARDING POTENTIAL PROSPECTIVE REVISIONS TO APPLICABLE METHODOLOGIES AND BENCHMARKS SET FORTH IN REGULATIONS ISSUED PURSUANT TO THIS SUBPARAGRAPH;

S 3. Section 2807-k of the public health law is amended by adding a new subdivision 5-c to read as follows:

5-C. (A) NOTWITHSTANDING ANY CONTRARY PROVISION OF LAW AND SUBJECT TO THE AVAILABILITY OF FEDERAL FINANCIAL PARTICIPATION, FOR THE PERIOD JULY FIRST, TWO THOUSAND TEN THROUGH DECEMBER THIRTY-FIRST, TWO THOUSAND TEN, DISTRIBUTIONS PURSUANT TO THIS SECTION AND SECTION TWENTY-EIGHT HUNDRED SEVEN-W OF THIS ARTICLE, SHALL REFLECT AN AGGREGATE REDUCTION OF SIXTY-NINE MILLION FOUR HUNDRED THOUSAND DOLLARS, BASED ON THE PROPORTION OF EACH HOSPITAL'S INDIGENT CARE ALLOCATIONS TO THE TOTAL ALLOCATIONS OF ALL HOSPITALS' INDIGENT CARE ALLOCATIONS PRIOR TO APPLICATION OF THIS REDUCTION, PROVIDED, HOWEVER, THAT SUCH REDUCTIONS SHALL NOT BE APPLIED TO DISTRIBUTIONS TO MAJOR PUBLIC HOSPITALS, INCLUDING MAJOR PUBLIC HOSPITALS OPERATED BY PUBLIC BENEFIT CORPORATIONS, AND ALSO SHALL NOT BE APPLIED TO DISTRIBUTIONS MADE PURSUANT TO SUBPARAGRAPH (II), (III) OR (IV) OF PARAGRAPH (B) OF SUBDIVISION FIVE-B OF THIS SECTION.

(B) NOTWITHSTANDING ANY CONTRARY PROVISION OF LAW AND SUBJECT TO THE AVAILABILITY OF FEDERAL FINANCIAL PARTICIPATION, FOR THE PERIOD JANUARY FIRST, TWO THOUSAND ELEVEN THROUGH DECEMBER THIRTY-FIRST, TWO THOUSAND ELEVEN AND EACH CALENDAR YEAR THEREAFTER, DISTRIBUTIONS PURSUANT TO THIS SECTION AND SECTION TWENTY-EIGHT HUNDRED SEVEN-W OF THIS ARTICLE SHALL REFLECT AN AGGREGATE REDUCTION OF SEVENTY-THREE MILLION TWO HUNDRED THOUSAND DOLLARS, BASED ON THE PROPORTION OF EACH HOSPITAL'S INDIGENT CARE ALLOCATION TO THE TOTAL ALLOCATIONS OF ALL HOSPITALS' INDIGENT CARE ALLOCATIONS PRIOR TO APPLICATION OF THIS REDUCTION, PROVIDED, HOWEVER, THAT SUCH REDUCTIONS SHALL NOT BE APPLIED TO DISTRIBUTIONS TO MAJOR PUBLIC HOSPITALS, INCLUDING MAJOR PUBLIC HOSPITALS OPERATED BY PUBLIC BENEFIT CORPORATIONS, AND SHALL ALSO NOT BE APPLIED TO DISTRIBUTIONS MADE PURSUANT TO SUBPARAGRAPH (II), (III) OR (IV) OF PARAGRAPH (B) OF SUBDIVISION FIVE-B OF THIS SECTION.

S 3-a. Subdivision 35 of section 2807-c of the public health law is amended by adding a new paragraph (i) to read as follows:

(I) (I) NOTWITHSTANDING ANY INCONSISTENT PROVISION OF THIS SUBDIVISION OR ANY OTHER CONTRARY PROVISION OF LAW AND SUBJECT TO THE AVAILABILITY OF FEDERAL FINANCIAL PARTICIPATION, FOR THE PERIOD JULY FIRST, TWO THOUSAND TEN THROUGH MARCH THIRTY-FIRST, TWO THOUSAND ELEVEN, AND EACH STATE FISCAL YEAR PERIOD THEREAFTER, THE COMMISSIONER SHALL MAKE ADDITIONAL INPATIENT HOSPITAL PAYMENTS UP TO THE AGGREGATE UPPER PAYMENT LIMIT FOR INPATIENT HOSPITAL SERVICES AFTER ALL OTHER MEDICAL ASSISTANCE PAYMENTS, BUT NOT TO EXCEED TWO HUNDRED THIRTY-FIVE MILLION FIVE HUNDRED THOUSAND DOLLARS FOR THE PERIOD JULY FIRST, TWO THOUSAND TEN THROUGH MARCH THIRTY-FIRST, TWO THOUSAND ELEVEN AND THREE HUNDRED FOURTEEN MILLION DOLLARS FOR EACH STATE FISCAL YEAR THEREAFTER, TO GENERAL HOSPITALS, OTHER THAN MAJOR PUBLIC GENERAL HOSPITALS, PROVIDING EMERGENCY ROOM SERVICES AND INCLUDING SAFETY NET HOSPITALS, WHICH SHALL, FOR THE PURPOSE OF THIS PARAGRAPH, BE DEFINED AS HAVING EITHER: A MEDICAID SHARE OF TOTAL INPATIENT HOSPITAL DISCHARGES OF AT LEAST THIRTY-FIVE PERCENT, INCLUDING BOTH FEE-FOR-SERVICE AND MANAGED CARE DISCHARGES FOR ACUTE AND EXEMPT SERVICES; OR A MEDICAID SHARE OF TOTAL DISCHARGES OF AT LEAST THIRTY PERCENT, INCLUDING BOTH FEE-FOR-SERVICE AND MANAGED CARE DISCHARGES FOR ACUTE AND EXEMPT SERVICES, AND ALSO PROVIDING OBSTETRICAL SERVICES. ELIGIBILITY TO RECEIVE SUCH ADDITIONAL PAYMENTS SHALL BE BASED ON DATA FROM THE PERIOD TWO YEARS PRIOR TO THE RATE YEAR, AS REPORTED ON THE INSTITUTIONAL COST REPORT SUBMITTED TO THE DEPARTMENT AS OF OCTOBER FIRST OF THE PRIOR RATE YEAR. SUCH PAYMENTS SHALL BE MADE AS MEDICAL ASSISTANCE PAYMENTS FOR FEE-FOR-SERVICE INPATIENT HOSPITAL SERVICES PURSUANT TO TITLE ELEVEN OF ARTICLE FIVE OF THE SOCIAL SERVICES LAW FOR PATIENTS ELIGIBLE FOR FEDERAL FINANCIAL PARTICIPATION UNDER TITLE XIX OF THE FEDERAL SOCIAL SECURITY ACT AND IN ACCORDANCE WITH THE FOLLOWING:

(A) THIRTY PERCENT OF SUCH PAYMENTS SHALL BE ALLOCATED TO SAFETY NET HOSPITALS BASED ON EACH ELIGIBLE HOSPITAL'S PROPORTIONATE SHARE OF ALL ELIGIBLE SAFETY NET HOSPITALS' MEDICAID DISCHARGES FOR INPATIENT HOSPITAL SERVICES, INCLUDING BOTH MEDICAID FEE-FOR-SERVICE AND MANAGED CARE DISCHARGES FOR ACUTE AND EXEMPT SERVICES, BASED ON DATA FROM THE PERIOD TWO YEARS PRIOR TO THE RATE YEAR, AS REPORTED ON THE INSTITUTIONAL COST REPORT SUBMITTED TO THE DEPARTMENT AS OF OCTOBER FIRST OF THE PRIOR RATE YEAR;

(B) SEVENTY PERCENT OF SUCH PAYMENTS SHALL BE ALLOCATED TO ELIGIBLE GENERAL HOSPITALS BASED ON EACH SUCH HOSPITAL'S PROPORTIONATE SHARE OF ALL ELIGIBLE HOSPITALS' MEDICAID DISCHARGES FOR INPATIENT HOSPITAL SERVICES, INCLUDING BOTH MEDICAID FEE-FOR-SERVICE AND MANAGED CARE DISCHARGES FOR ACUTE AND EXEMPT SERVICES, BASED ON DATA FROM THE PERIOD TWO YEARS PRIOR TO THE RATE YEAR, AS REPORTED ON THE INSTITUTIONAL COST REPORT SUBMITTED TO THE DEPARTMENT AS OF OCTOBER FIRST OF THE PRIOR RATE YEAR;

(C) NO ELIGIBLE GENERAL HOSPITAL'S ANNUAL PAYMENT AMOUNT PURSUANT TO THIS PARAGRAPH SHALL EXCEED THE LOWER OF THE SUM OF THE ANNUAL AMOUNTS DUE THAT HOSPITAL PURSUANT TO SECTION TWENTY-EIGHT HUNDRED SEVEN-K AND SECTION TWENTY-EIGHT HUNDRED SEVEN-W OF THIS ARTICLE; OR THE HOSPITAL'S FACILITY SPECIFIC PROJECTED DISPROPORTIONATE SHARE HOSPITAL PAYMENT CEILING ESTABLISHED PURSUANT TO FEDERAL LAW, PROVIDED, HOWEVER, THAT PAYMENT AMOUNTS TO ELIGIBLE HOSPITALS PURSUANT TO CLAUSES (A) AND (B) OF THIS SUBPARAGRAPH IN EXCESS OF THE LOWER OF SUCH SUM OR PAYMENT CEILING SHALL BE REALLOCATED TO ELIGIBLE HOSPITALS THAT DO NOT HAVE EXCESS PAYMENT AMOUNTS. SUCH REALLOCATIONS SHALL BE PROPORTIONAL TO EACH SUCH HOSPITAL'S AGGREGATE PAYMENT AMOUNT PURSUANT TO CLAUSES (A) AND (B) OF THIS SUBPARAGRAPH TO THE TOTAL OF ALL PAYMENT AMOUNTS FOR SUCH ELIGIBLE HOSPITALS;

(D) SUBJECT TO THE AVAILABILITY OF FEDERAL FINANCIAL PARTICIPATION, THE PAYMENT METHODOLOGY SET FORTH IN THIS SUBPARAGRAPH MAY BE FURTHER REVISED BY THE COMMISSIONER ON AN ANNUAL BASIS PURSUANT TO REGULATIONS ISSUED PURSUANT TO THIS SUBDIVISION FOR PERIODS ON AND AFTER APRIL FIRST, TWO THOUSAND ELEVEN; AND

(E) SUBJECT TO THE AVAILABILITY OF FEDERAL FINANCIAL PARTICIPATION AND IN CONFORMANCE WITH ALL APPLICABLE FEDERAL STATUTES AND REGULATIONS, SUCH PAYMENTS SHALL BE MADE AS UPPER PAYMENT LIMIT PAYMENTS AND, FURTHER, SUCH PAYMENTS SHALL BE MADE AS AGGREGATE MONTHLY PAYMENTS TO ELIGIBLE GENERAL HOSPITALS AND PROVIDED FURTHER, HOWEVER, THAT PAYMENTS MADE PURSUANT TO THIS PARAGRAPH SHALL NOT BE AVAILABLE FOR PERIODS AFTER THE LAST DAY OF THE CALENDAR YEAR DURING WHICH ENHANCED FEDERAL MEDICAID ASSISTANCE PERCENTAGES (FMAP) PAYMENTS TO GENERAL HOSPITALS IN THE STATE OF NEW YORK PURSUANT TO SECTION FIVE THOUSAND ONE OF THE FEDERAL AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009, OR PURSUANT TO AN OTHERWISE APPLICABLE FEDERAL LAW, CEASE TO BE AVAILABLE, PROVIDED, HOWEVER, THAT THE DEPARTMENT WILL IN CONJUNCTION WITH HOSPITAL REPRESENTATIVES REVIEW THE IMPACT ASSOCIATED WITH THE EXPIRATION OF SUCH FUNDING AVAILABILITY NO LATER THAN SIXTY DAYS PRIOR TO SUCH EXPIRATION.

(II) IN THE EVENT THAT THE COMMISSIONER DETERMINES THAT FEDERAL FINANCIAL PARTICIPATION WILL NOT BE AVAILABLE FOR AGGREGATE PAYMENTS MADE IN ACCORDANCE WITH CLAUSE (E) OF SUBPARAGRAPH (I) OF THIS PARAGRAPH, PAYMENTS PURSUANT TO THIS PARAGRAPH SHALL BE INCLUDED AS RATE ADD-ONS TO MEDICAL ASSISTANCE INPATIENT RATES OF PAYMENT ESTABLISHED PURSUANT TO THIS SUBDIVISION BASED ON DATA FROM THE PERIOD TWO YEARS PRIOR TO THE RATE YEAR, AS REPORTED ON THE INSTITUTIONAL COST REPORT SUBMITTED TO THE DEPARTMENT AS OF OCTOBER FIRST OF THE PRIOR RATE YEAR, PROVIDED, HOWEVER, THAT IF SUCH PAYMENTS ARE MADE AS RATE ADD-ONS, THE COMMISSIONER SHALL ESTABLISH A PROCEDURE TO RECONCILE PAYMENT AMOUNTS TO REFLECT CHANGES IN MEDICAL ASSISTANCE UTILIZATION FROM THE PERIOD TWO YEARS PRIOR TO THE RATE YEAR AND THE ACTUAL RATE YEAR BASED ON DATA AS REPORTED ON EACH HOSPITAL'S ANNUAL INSTITUTIONAL COST REPORT FOR THE RESPECTIVE RATE YEAR, AS SUBMITTED TO THE DEPARTMENT AS OF OCTOBER FIRST OF THE YEAR FOLLOWING THE RATE YEAR.

(III) NOTWITHSTANDING ANY OTHER LAW, RULE OR REGULATION TO THE CONTRARY, PROJECTIONS OF EACH GENERAL HOSPITAL'S DISPROPORTIONATE SHARE LIMITATIONS AS COMPUTED BY THE COMMISSIONER PURSUANT TO APPLICABLE REGULATIONS SHALL BE ADJUSTED TO REFLECT ANY ADDITIONAL REVENUE RECEIVED OR ANTICIPATED TO BE RECEIVED BY EACH SUCH GENERAL HOSPITAL PURSUANT TO THIS PARAGRAPH.

S 3-b. Section 2807-k of the public health law is amended by adding a new subdivision 17 to read as follows:

17. INDIGENT CARE REDUCTIONS. FOR EACH HOSPITAL RECEIVING PAYMENTS PURSUANT TO PARAGRAPH (I) OF SUBDIVISION THIRTY-FIVE OF SECTION TWENTY-EIGHT HUNDRED SEVEN-C OF THIS ARTICLE, THE COMMISSIONER SHALL REDUCE THE SUM OF ANY AMOUNTS PAID PURSUANT TO THIS SECTION AND PURSUANT TO SECTION TWENTY-EIGHT HUNDRED SEVEN-W OF THIS ARTICLE, AS COMPUTED BASED ON PROJECTED FACILITY SPECIFIC DISPROPORTIONATE SHARE HOSPITAL CEILINGS, BY AN AMOUNT EQUAL TO THE LOWER OF SUCH SUM OR EACH SUCH HOSPITAL'S PAYMENTS PURSUANT TO PARAGRAPH (I) OF SUBDIVISION THIRTY-FIVE OF SECTION TWENTY-EIGHT HUNDRED SEVEN-C OF THIS ARTICLE, PROVIDED, HOWEVER, THAT ANY ADDITIONAL AGGREGATE REDUCTIONS ENACTED IN A CHAPTER OF THE LAWS OF TWO THOUSAND TEN TO THE AGGREGATE AMOUNTS PAYABLE PURSUANT TO THIS SECTION AND PURSUANT TO SECTION TWENTY-EIGHT HUNDRED SEVEN-W OF THIS ARTICLE SHALL BE APPLIED SUBSEQUENT TO THE ADJUSTMENTS OTHERWISE PROVIDED FOR IN THIS SUBDIVISION.

S 3-c. Section 2807-w of the public health law is amended by adding a new subdivision 5 to read as follows:

5. FOR EACH HOSPITAL RECEIVING PAYMENTS PURSUANT TO PARAGRAPH (I) OF SUBDIVISION THIRTY-FIVE OF SECTION TWENTY-EIGHT HUNDRED SEVEN-C OF THIS ARTICLE, THE COMMISSIONER SHALL REDUCE THE SUM OF ANY AMOUNTS PAID PURSUANT TO THIS SECTION AND PURSUANT TO SECTION TWENTY-EIGHT HUNDRED SEVEN-K OF THIS ARTICLE, AS COMPUTED BASED ON PROJECTED FACILITY SPECIFIC DISPROPORTIONATE SHARE HOSPITAL CEILINGS, BY AN AMOUNT EQUAL TO THE LOWER OF SUCH SUM OR EACH SUCH HOSPITAL'S PAYMENTS PURSUANT TO PARAGRAPH (I) OF SUBDIVISION THIRTY-FIVE OF SECTION TWENTY-EIGHT HUNDRED SEVEN-C OF THIS ARTICLE, PROVIDED, HOWEVER, THAT ANY ADDITIONAL AGGREGATE REDUCTIONS ENACTED IN A CHAPTER OF THE LAWS OF TWO THOUSAND TEN TO THE AGGREGATE AMOUNTS PAYABLE PURSUANT TO THIS SECTION AND PURSUANT TO SECTION TWENTY-EIGHT HUNDRED SEVEN-K OF THIS ARTICLE SHALL BE APPLIED SUBSEQUENT TO THE ADJUSTMENTS OTHERWISE PROVIDED FOR IN THIS SUBDIVISION.

S 3-d. Paragraph (d) of subdivision 18 of section 2807-c of the public health law, as amended by section 12 of part A of chapter 58 of the laws of 2007, is amended to read as follows:

(d) Gross revenue received shall mean all moneys received for or on account of inpatient hospital service, provided, however, that subject to the provisions of paragraph (e) of this subdivision gross revenue received shall not include distributions from bad debt and charity care regional pools, health care services pools, bad debt and charity care for financially distressed hospitals statewide pools and bad debt and charity care and capital statewide pools created in accordance with this section or distributions from funds allocated in accordance with section twenty-eight hundred seven-l, twenty-eight hundred seven-k, twenty-eight hundred seven-v or twenty-eight hundred seven-w of this article and shall not include the components of rates of payment or charges related to the allowances provided in accordance with subdivisions fourteen, fourteen-b and fourteen-c of this section, the adjustment provided in accordance with subdivision fourteen-a of this section, the adjustment provided in accordance with subdivision fourteen-d of this section, the adjustment for health maintenance organization reimbursement rates provided in accordance with former subdivision two-a of this section, PAYMENTS MADE PURSUANT TO PARAGRAPH (I) OF SUBDIVISION THIRTY-FIVE OF THIS SECTION or, if effective, the adjustment provided in accordance with subdivision fifteen of this section, the adjustment provided in accordance with section eighteen of chapter two hundred sixty-six of the laws of nineteen hundred eighty-six as amended, revenue received from physician practice or faculty practice plan discrete billings for private practicing physician services, revenue from affiliation agreements or contracts with public hospitals for the delivery of health care services at such public hospitals, revenue received as disproportionate share hospital payments in accordance with title nineteen of the federal social security act, or revenue from government deficit financing, provided, however, that funds received as medical assistance payments which include state share amounts authorized pursuant to section twenty-eight hundred seven-v of this article that are not disproportionate share hospital payments shall be included within the meaning of gross revenue for purposes of this subdivision.

S 3-e. Paragraph (a) of subdivision 3 of section 2807-d of the public health law, as amended by section 13 of part D of chapter 57 of the laws of 2006, is amended to read as follows:

(a) for general hospitals, all monies received for or on account of inpatient hospital service, outpatient service, emergency service, referred ambulatory service and ambulatory surgical service, or other hospital or health-related services, excluding, subject to the provisions of subdivision twelve of this section: distributions from bad debt and charity care regional pools, primary health care services regional pools, bad debt and charity care for financially distressed hospitals statewide pools and bad debt and charity care and capital statewide pools created in accordance with section twenty-eight hundred seven-c of this article and the components of rates of payment or charges related to the allowances provided in accordance with subdivisions fourteen, fourteen-b and fourteen-c, the adjustment provided in accordance with subdivision fourteen-a, the adjustment provided in accordance with subdivision fourteen-d, the adjustment for health maintenance organization reimbursement rates provided in accordance with section twenty-eight hundred seven-f of this article, the adjustment for commercial insurer reimbursement rates provided in accordance with paragraph (i) of subdivision eleven of section twenty-eight hundred seven-c of this article or, if effective, the adjustment provided in accordance with subdivision fifteen of section twenty-eight hundred seven-c of this article or the adjustment provided in accordance with section eighteen of chapter two hundred sixty-six of the laws of nineteen hundred eighty-six as amended and physician practice or faculty practice plan revenue received by a general hospital based on discrete billings for private practicing physician services, revenue received by a general hospital from a public hospital pursuant to an affiliation agreement contract for the delivery of health care services to such public hospital, REVENUE RECEIVED PURSUANT TO PARAGRAPH (I) OF SUBDIVISION THIRTY-FIVE OF SECTION TWENTY-EIGHT HUNDRED SEVEN-C OF THIS ARTICLE, revenue received pursuant to section twenty-eight hundred seven-w of this article, all revenue received as disproportionate share hospital payments, in accordance with title nineteen of the federal Social Security Act, revenue received pursuant to sections eleven, twelve, thirteen and fourteen of part A of chapter one of the laws of two thousand two, revenue received pursuant to sections thirteen and fourteen of part B of chapter one of the laws of two thousand two, revenue from patient personal fund allowances, revenue from income earned on patient funds, investment income from externally restricted funds, revenue from investment sinking funds, revenue from investment operating escrow accounts, investment income from funded depreciation, investment income from mortgage repayment escrow accounts, revenue derived from the operation of schools leading to licensure, and revenue from the collection of sales and excise taxes;

S 4. The opening paragraph and subparagraph (i) of paragraph (b) of subdivision 5-a of section 2807-m of the public health law, the opening paragraph as amended by section 98 of part C of chapter 58 of the laws of 2009, and subparagraph (i) as added by section 75-c of part C of chapter 58 of the laws of 2008, are amended and subparagraph (ii) of paragraph (b) of subdivision 5-a is renumbered subdivision 5-b and amended to read as follows:

Empire clinical research investigator program (ECRIP) [and other graduate medical education reforms. Thirty]. NINE million [four] ONE hundred TWENTY thousand dollars annually for the period January first, two thousand nine through December thirty-first, two thousand ten, and [seven] TWO million [six] TWO hundred EIGHTY thousand dollars for the period January first, two thousand eleven through March thirty-first, two thousand eleven, shall be set aside and reserved by the commissioner from

the regional pools established pursuant to subdivision two of this section to be allocated regionally with two-thirds of the available funding going to New York city and one-third of the available funding going to the rest of the state and shall be available for distribution as follows:

[(i)] Distributions shall first be made to consortia and teaching general hospitals for the empire clinical research investigator program (ECRIP) to help secure federal funding for biomedical research, train clinical researchers, recruit national leaders as faculty to act as mentors, and train residents and fellows in biomedical research skills based on hospital-specific data submitted to the commissioner by consortia and teaching general hospitals in accordance with clause (G) of this subparagraph. Such distributions shall be made in accordance with the following methodology:

(A) The greatest number of clinical research positions for which a consortium or teaching general hospital may be funded pursuant to this subparagraph shall be one percent of the total number of residents training at the consortium or teaching general hospital on July first, two thousand eight for the period January first, two thousand nine through December thirty-first, two thousand nine rounded up to the nearest one position.

(B) Distributions made to a consortium or teaching general hospital shall equal the product of the total number of clinical research positions submitted by a consortium or teaching general hospital and accepted by the commissioner as meeting the criteria set forth in paragraph (b) of subdivision one of this section, subject to the reduction calculation set forth in clause (C) of this subparagraph, times one hundred ten thousand dollars.

(C) If the dollar amount for the total number of clinical research positions in the region calculated pursuant to clause (B) of this subparagraph exceeds thirty percent of the funding available pursuant to this paragraph, or an amount equal to the sum of one clinical research position per teaching general hospital in the region, whichever is greater, including clinical research positions that continue from and were funded in prior distribution periods, the commissioner shall eliminate one-half of the clinical research positions submitted by each consortium or teaching general hospital rounded down to the nearest one position. Such reduction shall be repeated until the dollar amount for the total number of clinical research positions in the region does not exceed thirty percent of the regional pool, or an amount equal to the sum of one clinical research position per teaching general hospital in the region, whichever is greater. No clinical research positions that continue from and were funded in prior distribution periods shall be eliminated by such reduction.

(D) Each consortium or teaching general hospital shall receive fifty percent of its annual distribution amount calculated pursuant to this subparagraph once the requirements set forth in clause (G) of this subparagraph have been met. The remaining distribution amount shall be disbursed subsequent to the submission of information required pursuant to clause (G) of this subparagraph.

(E) Each consortium or teaching general hospital receiving distributions pursuant to this subparagraph shall reserve seventy-five thousand dollars to primarily fund salary and fringe benefits of the clinical research position with the remainder going to fund the development of faculty who are involved in biomedical research, training and clinical care.

(F) Undistributed or returned funds available to fund clinical research positions pursuant to this paragraph for a distribution period shall be available to fund clinical research positions in a subsequent distribution period.

(G) In order to be eligible for distributions pursuant to this subparagraph, each consortium and teaching general hospital shall provide to the commissioner by July first of each distribution period, the following data and information on a hospital-specific basis. Such data and information shall be certified as to accuracy and completeness by the chief executive officer, chief financial officer or chair of the consortium governing body of each consortium or teaching general hospital and shall be maintained by each consortium and teaching general hospital for five years from the date of submission:

(I) For each clinical research position, information on the type, scope, training objectives, institutional support, clinical research experience of the sponsor-mentor, plans for submitting research outcomes to peer reviewed journals and at scientific meetings, including a meeting sponsored by the department, the name of a principal contact person responsible for tracking the career development of researchers placed in clinical research positions, as defined in paragraph (c) of subdivision one of this section, and who is authorized to certify to the commissioner that all the requirements of the clinical research training objectives set forth in this subparagraph shall be met. Such certification shall be provided by July first of each distribution period;

(II) For each clinical research position, information on the name, citizenship status, medical education and training, and medical license number of the researcher, if applicable, shall be provided by December thirty-first of the calendar year following the distribution period;

(III) Information on the status of the clinical research plan, accomplishments, changes in research activities, progress, and performance of the researcher shall be provided six months after the clinical research position has commenced and every six months thereafter for a full-time position and for a half-time position, one year after the clinical research position has commenced and every year thereafter;

(IV) A final report detailing training experiences, accomplishments, activities and performance of the clinical researcher, and data, methods, results and analyses of the clinical research plan shall be provided three months after the clinical research position ends; and

(V) Any other data or information required by the commissioner to implement this subparagraph.

[(ii)] 5-B. OTHER GRADUATE MEDICAL EDUCATION REFORMS. Any funds [remaining after distributions in accordance with subparagraph (i)] SPECIFICALLY APPROPRIATED FOR THE PURPOSES of this [paragraph] SUBDIVISION shall be used to fund innovative graduate medical education reforms to be determined by the commissioner in consultation with the council, including, but not limited to, [(A)] (A) development of primary care residency and specialty position training tracks for graduates to serve rural or inner-city communities, [(B)] (B) development of regional pilot network programs to affiliate major academic centers with community teaching general hospitals, [(C)] (C) support for faculty development programs, including designating faculty to mentor students and residents in primary care, [(D)] (D) support training in fields which serve the geriatric population; [(E)] (E) increase training in cultural competence, [(F)] (F) promote training of physicians who will serve persons with developmental disabilities, and [(G)] (G) any other reforms necessary to improve patient care management, interdisciplinary training, or

quality in graduate medical education programs. Such funding shall be distributed to consortia and teaching general hospitals in each region on a competitive basis pursuant to a request for proposal process.

S 5. Subdivision 8 of section 272 of the public health law, as added by section 10 of part C of chapter 58 of the laws of 2005, is amended to read as follows:

8. The commissioner shall provide notice of any recommendations developed by the committee regarding the preferred drug program, at least [thirty] FIVE days before any final determination by the commissioner, by making such information available on the department's website. Such public notice shall include: a summary of the deliberations of the committee; a summary of the positions of those making public comments at meetings of the committee; the response of the committee to those comments, if any; and the findings and recommendations of the committee.

S 6. Intentionally Omitted.

S 7. Intentionally Omitted.

S 8. Intentionally Omitted.

S 9. Subparagraphs (vii) and (viii) of paragraph (uu) of subdivision 1 of section 2807-v of the public health law, as amended by section 120 of part C of chapter 58 of the laws of 2009, are amended to read as follows:

(vii) [seven] ONE million [five] EIGHT hundred SEVENTY-FIVE thousand dollars for the period January first, two thousand ten through [December] MARCH thirty-first, two thousand ten shall be available for disease management demonstration programs[; and

(viii) one million eight hundred seventy-five thousand dollars for the period January first, two thousand eleven through March thirty-first, two thousand eleven shall be available for disease management demonstration programs].

S 10. Paragraph (jj) of subdivision 1 of section 2807-v of the public health law, as amended by section 5 of part B of chapter 58 of the laws of 2008, is amended to read as follows:

(jj) Funds shall be reserved and accumulated from year to year and shall be available, including income from invested funds, for the purposes of a grant program to improve access to infertility services, treatments and procedures, from the tobacco control and insurance initiatives pool established for the period January first, two thousand two through December thirty-first, two thousand two in the amount of nine million one hundred seventy-five thousand dollars, for the period April first, two thousand six through March thirty-first, two thousand seven in the amount of five million dollars, for the period April first, two thousand seven through March thirty-first, two thousand eight in the amount of five million dollars, for the period April first, two thousand eight through March thirty-first, two thousand nine in the amount of five million dollars, AND for the period April first, two thousand nine through March thirty-first, two thousand ten in the amount of five million dollars, and for the period April first, two thousand ten through March thirty-first, two thousand eleven in the amount of [five] TWO million TWO HUNDRED THOUSAND dollars.

S 11. Subparagraphs (vii) and (viii) of paragraph (qq) of subdivision 1 of section 2807-v of the public health law, as amended by section 5 of part B of chapter 58 of the laws of 2008, are amended to read as follows:

(vii) up to [five million] FOUR HUNDRED EIGHTY-EIGHT THOUSAND dollars for the period January first, two thousand ten through [December] MARCH thirty-first, two thousand ten; of such funds [one million nine] FOUR

hundred [fifty] EIGHTY-EIGHT thousand dollars shall be made available to the department for the purpose of developing, implementing and administering the long-term care insurance education and outreach program [and three million fifty thousand dollars shall be made available to the office for the aging for the purpose of providing the long-term care insurance resource centers with the necessary resources to carry out their operations; and

(viii) up to one million two hundred fifty thousand dollars for the period January first, two thousand eleven through March thirty-first, two thousand eleven; of such funds four hundred eighty-seven thousand five hundred dollars shall be made available to the department for the purpose of developing, implementing and administering the long-term care insurance education and outreach program and seven hundred sixty-two thousand five hundred dollars shall be made available to the office for the aging for the purpose of providing the long-term care insurance resource centers with the necessary resources to carry out their operations].

S 12. Subparagraphs (xi) and (xii) of paragraph (j) of subdivision 1 of section 2807-v of the public health law, as amended by section 5 of part B of chapter 58 of the laws of 2008, are amended to read as follows:

(xi) up to [ninety-four] EIGHTY-SEVEN million [one] SEVEN hundred [fifty] SEVENTY-FIVE thousand dollars for the period January first, two thousand ten through December thirty-first, two thousand ten; and

(xii) up to [twenty-three] TWENTY-ONE million [five] FOUR hundred [thirty-seven] TWELVE thousand dollars for the period January first, two thousand eleven through March thirty-first, two thousand eleven.

S 13. Subparagraph (iv) of paragraph (c) of subdivision 1 of section 2807-l of the public health law, as amended by section 4 of part B of chapter 58 of the laws of 2008, is amended to read as follows:

(iv) distributions by the commissioner related to poison control centers pursuant to subdivision seven of section twenty-five hundred-d of this chapter, up to five million dollars for the period January first, nineteen hundred ninety-seven through December thirty-first, nineteen hundred ninety-seven, up to three million dollars on an annualized basis for the periods during the period January first, nineteen hundred ninety-eight through December thirty-first, nineteen hundred ninety-nine, up to five million dollars annually for the periods January first, two thousand through December thirty-first, two thousand two, up to four million six hundred thousand dollars annually for the periods January first, two thousand three through December thirty-first, two thousand four, up to five million one hundred thousand dollars for the period January first, two thousand five through December thirty-first, two thousand six annually, up to five million one hundred thousand dollars annually for the period January first, two thousand seven through December thirty-first, two thousand [ten,] NINE, UP TO THREE MILLION SIX HUNDRED THOUSAND DOLLARS FOR THE PERIOD JANUARY FIRST, TWO THOUSAND TEN THROUGH DECEMBER THIRTY-FIRST, TWO THOUSAND TEN, and up to [one million two] SEVEN hundred seventy-five thousand dollars for the period January first, two thousand eleven through March thirty-first, two thousand eleven; and

S 14. Section 365-a of the social services law is amended by adding a new subdivision 9 to read as follows:

9. (A) NOTWITHSTANDING ANY INCONSISTENT PROVISION OF LAW, ANY UTILIZATION CONTROLS ON OCCUPATIONAL THERAPY OR PHYSICAL THERAPY, INCLUDING BUT NOT LIMITED TO, PRIOR APPROVAL OF SERVICES, UTILIZATION THRESHOLDS OR

OTHER LIMITATIONS IMPOSED ON SUCH THERAPY SERVICES IN RELATION TO A CHRONIC CONDITION IN CLINICS CERTIFIED UNDER ARTICLE TWENTY-EIGHT OF THE PUBLIC HEALTH LAW OR ARTICLE SIXTEEN OF THE MENTAL HYGIENE LAW SHALL BE: (I) DEVELOPED BY THE DEPARTMENT OF HEALTH IN CONCURRENCE WITH THE OFFICE OF MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES; AND (II) IN ACCORD WITH NATIONALLY RECOGNIZED PROFESSIONAL STANDARDS. IN THE EVENT THAT NATIONALLY RECOGNIZED PROFESSIONAL STANDARDS DO NOT EXIST, SUCH THRESHOLDS SHALL BE BASED UPON THE REASONABLY RECOGNIZED PROFESSIONAL STANDARDS OF THOSE WITH A SPECIFIC EXPERTISE IN TREATING INDIVIDUALS SERVED BY CLINICS CERTIFIED UNDER ARTICLE TWENTY-EIGHT OF THE PUBLIC HEALTH LAW OR ARTICLE SIXTEEN OF THE MENTAL HYGIENE LAW.

(B) PRIOR APPROVAL BY THE DEPARTMENT OF HEALTH OF A PHYSICAL THERAPY EVALUATION OR AN OCCUPATIONAL THERAPY EVALUATION BY A QUALIFIED PRACTITIONER PRACTICING WITHIN THE SCOPE OF SUCH PRACTITIONER'S LICENSURE SHALL NOT BE REQUIRED. THE DEPARTMENT MAY REQUIRE PRIOR APPROVAL FOR TREATMENT AS RECOMMENDED BY SUCH AN EVALUATION. IN THE EVENT THAT PRIOR APPROVAL IS REQUIRED, AND THE DEPARTMENT FAILS TO MAKE A DETERMINATION WITHIN EIGHT DAYS OF PRESENTATION OF A TREATMENT REQUEST FOR PHYSICAL OR OCCUPATIONAL THERAPY SERVICES, THE DEPARTMENT SHALL AUTOMATICALLY APPROVE FOUR THERAPY VISITS. IN THE CASE OF ANY DENIAL OF A PRIOR APPROVAL REQUEST FOR PHYSICAL THERAPY OR OCCUPATIONAL THERAPY, THE DEPARTMENT SHALL PROVIDE A REASONABLE OPPORTUNITY FOR THE QUALIFIED PRACTITIONER TO PROVIDE HIS OR HER ASSESSMENT OF THE BENEFICIARY'S PHYSICAL AND FUNCTIONAL STATUS AS DOCUMENTED IN A TREATMENT PLAN WITH REASONABLE AND OBTAINABLE GOALS. IF, UPON COMPLETION OF SUCH FOUR THERAPY VISITS, THE DEPARTMENT HAS NOT YET RENDERED A DETERMINATION ON THE REQUEST FOR PHYSICAL OR OCCUPATIONAL THERAPY SERVICES, THE DEPARTMENT SHALL AUTOMATICALLY APPROVE AN ADDITIONAL FOUR THERAPY VISITS. SUBSEQUENT AUTOMATIC APPROVALS SHALL BE ISSUED IN THE SAME MANNER UNTIL SUCH TIME AS THE DEPARTMENT ISSUES A DETERMINATION, BUT IN NO EVENT SHALL SUCH APPROVALS EXCEED THE NUMBER OF SERVICES OR THE PERIOD OF TIME RECOMMENDED BY THE EVALUATION. IF THE QUALIFIED PRACTITIONER PROVIDES DOCUMENTATION THAT IS IN ACCORD WITH REASONABLY RECOGNIZED PROFESSIONAL STANDARDS, THE RECOMMENDED TREATMENT PLAN SHALL BE FINAL, AND THE PRIOR APPROVAL REQUEST SHALL BE APPROVED.

S 15. Paragraph (d) of subdivision 1 of section 453 of the general business law, as amended by chapter 557 of the laws of 2001, is amended to read as follows:

(d) Moneys paid for such an agreement for an applicant or recipient of supplemental security income benefits under section two hundred nine of the social services law or of medical assistance under section three hundred sixty-six of such law, OR MONEYS PAID BY SUCH AN APPLICANT OR RECIPIENT FOR SUCH AN AGREEMENT FOR HIS OR HER FAMILY MEMBER, shall be placed into a trust which shall be irrevocable but under which such applicant/recipient reserves the right to select any funeral firm, funeral director, undertaker, cemetery or any other person, firm or corporation to whom such payment is made and to change such selection any time to any type of funeral or any funeral firm, funeral director, cemetery or any other person, firm or corporation to whom such payment is made, located in the state of New York or any other state. Any such change must be carried out within ten business days following receipt of a request by the purchaser to the funeral firm, funeral director, cemetery or any other person, firm or corporation to whom such payment is made, with which such trust was established. This requirement is subject to any limits set forth in federal law or regulation pertaining to disregarded resources or income.

S 16. Paragraph (f) of subdivision 3 of section 453 of the general business law, as added by chapter 660 of the laws of 1996, is amended to read as follows:

(f) With respect to an agreement for an irrevocable trust fund pursuant to section two hundred nine of the social services law OR PARAGRAPH (D) OF SUBDIVISION ONE OF THIS SECTION, include the following statement in the agreement in conspicuous print of at least twelve point type:

DISCLOSURE

NEW YORK LAW REQUIRES THIS AGREEMENT TO BE IRREVOCABLE FOR APPLICANTS FOR [RECEIPT] AND RECIPIENTS OF SUPPLEMENTAL SECURITY BENEFITS UNDER SECTION TWO HUNDRED NINE OF THE SOCIAL SERVICES LAW OR OF MEDICAL ASSISTANCE UNDER SECTION THREE HUNDRED SIXTY-SIX OF THE SOCIAL SERVICES LAW, AND FOR THE MONEYS PUT INTO A TRUST UNDER THIS AGREEMENT TO BE USED ONLY FOR FUNERAL AND BURIAL EXPENSES. WHETHER THE AGREEMENT IS FOR YOUR FUNERAL AND BURIAL EXPENSES OR FOR THOSE OF A FAMILY MEMBER, IF ANY MONEY IS LEFT OVER AFTER YOUR FUNERAL AND BURIAL EXPENSES HAVE BEEN PAID, IT WILL GO TO THE COUNTY. YOU MAY CHANGE YOUR CHOICE OF FUNERAL HOME AT ANY TIME. IF THIS AGREEMENT IS FOR THE FUNERAL AND BURIAL EXPENSES OF A FAMILY MEMBER, AFTER YOUR DEATH SUCH FAMILY MEMBER MAY CHANGE THE CHOICE OF FUNERAL HOME AT ANY TIME.

S 17. Subdivision 6 of section 209 of the social services law, as amended by chapter 660 of the laws of 1996, paragraphs (a) and (b) as amended by chapter 317 of the laws of 2002, is amended to read as follows:

6. (a) As applicable federal law, rules and regulations so provide, a recipient of supplemental security income benefits or medical assistance in the state of New York or any other state may establish an irrevocable trust fund for the exclusive purpose of their OR A FAMILY MEMBER'S funeral and burial. Such trust fund and any accumulated interest not withdrawn by the recipient shall remain the responsibility of the funeral firm, funeral director, undertaker, cemetery or any other person, firm or corporation to whom such payment is made to administer for funeral and burial expenses of the recipient. Those persons who establish such a trust fund shall be given the opportunity to select the funeral firm, funeral director, undertaker, cemetery or any other person, firm or corporation to whom such payment is made of their choice to provide for their OR A FAMILY MEMBER'S burial arrangements and to change such selection at any time to any funeral firm, funeral director, undertaker, cemetery or any other person, firm or corporation to whom such payment is made, located either in the state of New York or any other state. Any such change of funeral firm, funeral director, undertaker, cemetery, or any other person, firm or corporation to whom such payment is made, must be carried out within ten business days following receipt of a request by the purchaser to the funeral firm, funeral director, undertaker, cemetery, or any other person, firm or corporation to whom such payment is made with which the current trust fund was established. Funds in such trust fund shall be placed in an interest bearing account pursuant to section four hundred fifty-three of the general business law. Accumulated interest from such account shall not be reported as "countable income" pursuant to section two hundred eight of this title.

(b) An applicant for or a recipient of medical assistance in the state of New York or any other state who enters into an agreement pursuant to section four hundred fifty-three of the general business law FOR THEIR OWN BENEFIT OR FOR THE BENEFIT OF A FAMILY MEMBER shall establish a

single irrevocable trust fund FOR EACH SUCH BENEFICIARY pursuant to paragraph (a) of this subdivision.

(c) A funeral firm, funeral director, undertaker, cemetery, or any other person, firm or corporation which makes an agreement for and accepts payment for such an irrevocable trust fund, shall comply with the provisions of section four hundred fifty-three of the general business law, and shall include the following statement in any such agreement in conspicuous print of at least twelve point type:

DISCLOSURE

NEW YORK LAW REQUIRES THIS AGREEMENT TO BE IRREVOCABLE FOR APPLICANTS FOR [RECEIPT] AND RECIPIENTS OF SUPPLEMENTAL SECURITY BENEFITS UNDER SECTION TWO HUNDRED NINE OF THE SOCIAL SERVICES LAW OR OF MEDICAL ASSISTANCE UNDER SECTION THREE HUNDRED SIXTY-SIX OF THE SOCIAL SERVICES LAW, AND FOR THE MONEYS PUT INTO A TRUST UNDER THIS AGREEMENT TO BE USED ONLY FOR FUNERAL AND BURIAL EXPENSES. WHETHER THIS AGREEMENT IS FOR YOUR FUNERAL AND BURIAL EXPENSES OR FOR THOSE OF A FAMILY MEMBER, IF ANY MONEY IS LEFT OVER AFTER YOUR FUNERAL AND BURIAL EXPENSES HAVE BEEN PAID, IT WILL GO TO THE COUNTY. YOU MAY CHANGE YOUR CHOICE OF FUNERAL HOME AT ANY TIME. IF THIS AGREEMENT IS FOR THE FUNERAL AND BURIAL EXPENSES OF A FAMILY MEMBER, AFTER YOUR DEATH SUCH FAMILY MEMBER MAY CHANGE THE CHOICE OF FUNERAL HOME AT ANY TIME.

(d) Any promotional literature prepared after January first, nineteen hundred ninety-seven by a funeral firm, funeral director, undertaker, cemetery, or any other person, firm or corporation for prearranged funeral and burial services must contain language disclosing the irrevocable nature of burial trusts established BY OR for an applicant or recipient of supplemental security income benefits or medical assistance.

S 18. Paragraph (g) of subdivision 3 of section 453 of the general business law, as added by chapter 660 of the laws of 1996, is amended to read as follows:

(g) Any promotional literature prepared after January first, nineteen hundred ninety-seven by a funeral firm, funeral director, undertaker, cemetery, or any other person, firm or corporation for prearranged funeral and burial services must contain language disclosing the irrevocable nature of burial trusts established BY OR for an applicant or recipient of supplemental security income benefits or medical assistance.

S 19. Subdivision 6 of section 141 of the social services law, as added by chapter 660 of the laws of 1996, is amended to read as follows:

6. If an applicant for or a recipient of public assistance or care or of medical assistance under section two hundred nine or three hundred sixty-six of this chapter [dies having established] ESTABLISHES an irrevocable trust for the payment of his or her funeral expenses, OR THOSE OF A FAMILY MEMBER, under section four hundred fifty-three of the general business law, any funds remaining in such trust after the payment of all funeral expenses must be paid over to the social services official responsible for arranging for burials under this section in the local government subdivision where the decedent resided.

S 20. Section 365-h of the social services law, as added by chapter 81 of the laws of 1995 and subdivision 3 as amended by section 26 of part B of chapter 1 of the laws of 2002, is amended to read as follows:

S 365-h. Provision and reimbursement of transportation costs. 1. The local social services official AND, SUBJECT TO THE PROVISIONS OF SUBDIVISION FOUR OF THIS SECTION, THE COMMISSIONER OF HEALTH shall have responsibility for prior authorizing transportation of eligible persons

and for limiting the provision of such transportation to those recipients and circumstances where such transportation is essential, medically necessary and appropriate to obtain medical care, services or supplies otherwise available under this title.

2. In exercising this responsibility, the local social services official AND, AS APPROPRIATE, THE COMMISSIONER OF HEALTH shall:

(a) make appropriate and economical use of transportation resources available in the district in meeting the anticipated demand for transportation within the district, including, but not limited to: transportation generally available free-of-charge to the general public or specific segments of the general public, public transportation, promotion of group rides, county vehicles, coordinated transportation, and direct purchase of services; and

(b) maintain quality assurance mechanisms in order to ensure that (i) only such transportation as is essential, medically necessary and appropriate to obtain medical care, services or supplies otherwise available under this title is provided [and]; (ii) no expenditures for taxi or livery transportation are made when public transportation or lower cost transportation is reasonably available to eligible persons; AND (III) TRANSPORTATION SERVICES ARE PROVIDED IN A SAFE, TIMELY, AND RELIABLE MANNER BY PROVIDERS THAT COMPLY WITH STATE AND LOCAL REGULATORY REQUIREMENTS AND MEET CONSUMER SATISFACTION CRITERIA APPROVED BY THE COMMISSIONER OF HEALTH.

3. In the event that coordination or other such cost savings measures are implemented, the commissioner shall assure compliance with applicable standards governing the safety and quality of transportation of the population served.

4. THE COMMISSIONER OF HEALTH IS AUTHORIZED TO ASSUME RESPONSIBILITY FROM A LOCAL SOCIAL SERVICES OFFICIAL FOR THE PROVISION AND REIMBURSEMENT OF TRANSPORTATION COSTS UNDER THIS SECTION. IF THE COMMISSIONER ELECTS TO ASSUME SUCH RESPONSIBILITY, THE COMMISSIONER SHALL NOTIFY THE LOCAL SOCIAL SERVICES OFFICIAL IN WRITING AS TO THE ELECTION, THE DATE UPON WHICH THE ELECTION SHALL BE EFFECTIVE AND SUCH INFORMATION AS TO TRANSITION OF RESPONSIBILITIES AS THE COMMISSIONER DEEMS PRUDENT. THE COMMISSIONER IS AUTHORIZED TO CONTRACT WITH A TRANSPORTATION MANAGER OR MANAGERS TO MANAGE TRANSPORTATION SERVICES IN ANY LOCAL SOCIAL SERVICES DISTRICT. ANY TRANSPORTATION MANAGER OR MANAGERS SELECTED BY THE COMMISSIONER TO MANAGE TRANSPORTATION SERVICES SHALL HAVE PROVEN EXPERIENCE IN COORDINATING TRANSPORTATION SERVICES IN A GEOGRAPHIC AND DEMOGRAPHIC AREA SIMILAR TO THE AREA IN NEW YORK STATE WITHIN WHICH THE CONTRACTOR WOULD MANAGE THE PROVISION OF SERVICES UNDER THIS SECTION. SUCH A CONTRACT OR CONTRACTS MAY INCLUDE RESPONSIBILITY FOR: REVIEW, APPROVAL AND PROCESSING OF TRANSPORTATION ORDERS; MANAGEMENT OF THE APPROPRIATE LEVEL OF TRANSPORTATION BASED ON DOCUMENTED PATIENT MEDICAL NEED; AND DEVELOPMENT OF NEW TECHNOLOGIES LEADING TO EFFICIENT TRANSPORTATION SERVICES. IF THE COMMISSIONER ELECTS TO ASSUME SUCH RESPONSIBILITY FROM A LOCAL SOCIAL SERVICES DISTRICT, THE COMMISSIONER SHALL EXAMINE AND, IF APPROPRIATE, ADOPT QUALITY ASSURANCE MEASURES THAT MAY INCLUDE, BUT ARE NOT LIMITED TO, GLOBAL POSITIONING TRACKING SYSTEM REPORTING REQUIREMENTS AND SERVICE VERIFICATION MECHANISMS. ANY AND ALL REIMBURSEMENT RATES DEVELOPED BY TRANSPORTATION MANAGERS UNDER THIS SUBDIVISION SHALL BE SUBJECT TO THE REVIEW AND APPROVAL OF THE COMMISSIONER. NOTWITHSTANDING ANY INCONSISTENT PROVISION OF SECTIONS ONE HUNDRED TWELVE AND ONE HUNDRED SIXTY-THREE OF THE STATE FINANCE LAW, OR SECTION ONE HUNDRED FORTY-TWO OF THE ECONOMIC DEVELOPMENT LAW, OR ANY OTHER LAW, THE COMMISSIONER IS AUTHORIZED TO ENTER INTO A CONTRACT OR CONTRACTS UNDER THIS

SUBDIVISION WITHOUT A COMPETITIVE BID OR REQUEST FOR PROPOSAL PROCESS, PROVIDED, HOWEVER, THAT:

(A) THE DEPARTMENT SHALL POST ON ITS WEBSITE, FOR A PERIOD OF NO LESS THAN THIRTY DAYS:

(I) A DESCRIPTION OF THE PROPOSED SERVICES TO BE PROVIDED PURSUANT TO THE CONTRACT OR CONTRACTS;

(II) THE CRITERIA FOR SELECTION OF A CONTRACTOR OR CONTRACTORS;

(III) THE PERIOD OF TIME DURING WHICH A PROSPECTIVE CONTRACTOR MAY SEEK SELECTION, WHICH SHALL BE NO LESS THAN THIRTY DAYS AFTER SUCH INFORMATION IS FIRST POSTED ON THE WEBSITE; AND

(IV) THE MANNER BY WHICH A PROSPECTIVE CONTRACTOR MAY SEEK SUCH SELECTION, WHICH MAY INCLUDE SUBMISSION BY ELECTRONIC MEANS;

(B) ALL REASONABLE AND RESPONSIVE SUBMISSIONS THAT ARE RECEIVED FROM PROSPECTIVE CONTRACTORS IN TIMELY FASHION SHALL BE REVIEWED BY THE COMMISSIONER; AND

(C) THE COMMISSIONER SHALL SELECT SUCH CONTRACTOR OR CONTRACTORS THAT, IN HIS OR HER DISCRETION, ARE BEST SUITED TO SERVE THE PURPOSES OF THIS SECTION.

S 21. Subdivision 7 of section 2510 of the public health law, as amended by chapter 645 of the laws of 2005, is amended to read as follows:

7. "Covered health care services" means: the services of physicians, optometrists, nurses, nurse practitioners, midwives and other related professional personnel which are provided on an outpatient basis, including routine well-child visits; diagnosis and treatment of illness and injury; inpatient health care services; laboratory tests; diagnostic x-rays; prescription and non-prescription drugs and durable medical equipment; radiation therapy; chemotherapy; hemodialysis; emergency room services; hospice services; emergency, preventive and routine dental care, [except orthodontia and] INCLUDING MEDICALLY NECESSARY ORTHODONTIA BUT EXCLUDING cosmetic surgery; emergency, preventive and routine vision care, including eyeglasses; speech and hearing services; and, inpatient and outpatient mental health, alcohol and substance abuse services as defined by the commissioner in consultation with the superintendent. "Covered health care services" shall not include drugs, procedures and supplies for the treatment of erectile dysfunction when provided to, or prescribed for use by, a person who is required to register as a sex offender pursuant to article six-C of the correction law, provided that any denial of coverage of such drugs, procedures or supplies shall provide the patient with the means of obtaining additional information concerning both the denial and the means of challenging such denial.

S 21-a. Subdivision 8 of section 2511 of the public health law is amended by adding a new paragraph (e) to read as follows:

(E) THE COMMISSIONER SHALL ADJUST SUBSIDY PAYMENTS TO APPROVED ORGANIZATIONS MADE ON AND AFTER APRIL FIRST, TWO THOUSAND TEN, SO THAT THE AMOUNT OF EACH SUCH PAYMENT, AS OTHERWISE CALCULATED PURSUANT TO THIS SUBDIVISION, IS REDUCED BY TWENTY-EIGHT PERCENT OF THE AMOUNT BY WHICH SUCH CALCULATED PAYMENT EXCEEDS THE STATEWIDE AVERAGE SUBSIDY PAYMENT FOR ALL APPROVED ORGANIZATIONS IN EFFECT ON APRIL FIRST, TWO THOUSAND TEN. SUCH STATEWIDE AVERAGE SUBSIDY PAYMENT SHALL BE CALCULATED BY THE COMMISSIONER AND SHALL NOT REFLECT ADJUSTMENTS MADE PURSUANT TO THIS PARAGRAPH.

S 22. Subdivision 4 of section 6 of part C of chapter 58 of the laws of 2005, amending the public health law and other laws relating to authorizing reimbursements for expenditures made by social services districts for medical assistance, is amended to read as follows:

4. If the commissioner of health finds that a district has either substantially failed to demonstrate due diligence, including due diligence with respect to the identification and reporting of fraud and abuse, according to the prescribed requirements and guidelines or continues to fail to comply with such requirements then such commissioner may impose such sanctions and penalties as are permitted under the public health law and the social services law. IN ADDITION, IF THE FEDERAL CENTERS FOR MEDICARE AND MEDICAID SERVICES, OR A SUCCESSOR AGENCY, DISALLOWS CLAIMS FOR FEDERAL FINANCIAL PARTICIPATION SUBMITTED TO IT BY THE DEPARTMENT OF HEALTH, OR IF ANY FEDERAL AGENCY DETERMINES TO RECOVER FEDERAL MEDICAID FUNDS PREVIOUSLY PAID TO THE DEPARTMENT OF HEALTH, THE DEPARTMENT MAY RECOVER FROM A DISTRICT THE AMOUNT OF SUCH DISALLOWANCE OR RECOVERY THAT THE COMMISSIONER DETERMINES WAS CAUSED BY A DISTRICT'S FAILURE TO PROPERLY ADMINISTER, SUPERVISE OR OPERATE THE MEDICAID PROGRAM. ANY SUCH RECOVERY MAY BE MADE BY THE DEPARTMENT OF HEALTH ONLY AFTER A FINDING BY THE COMMISSIONER OF HEALTH THAT THE DISTRICT HAS VIOLATED A STATUTE, REGULATION OR CLEARLY ARTICULATED WRITTEN POLICY AND THAT SUCH VIOLATION WAS A DIRECT CAUSE OF THE FEDERAL DISALLOWANCE OR RECOVERY. A DISTRICT SUBJECT TO SUCH FINDINGS SHALL HAVE THE OPPORTUNITY TO SUBMIT TO THE COMMISSIONER WRITTEN OBJECTIONS TO SUCH FINDINGS WITHIN THIRTY DAYS AFTER NOTICE OF THE FINDINGS IS TRANSMITTED TO THE DISTRICT. THE TIME TO MAKE SUCH SUBMISSION MAY BE EXTENDED AT THE DISCRETION OF THE COMMISSIONER. THE COMMISSIONER SHALL ISSUE A WRITTEN DETERMINATION IN RESPONSE TO ANY SUCH OBJECTIONS, PRIOR TO INITIATION OF RECOVERY BY THE DEPARTMENT. THE DISTRICT MAY CHALLENGE SUCH DETERMINATION IN A PROCEEDING COMMENCED UNDER ARTICLE SEVENTY-EIGHT OF THE CIVIL PRACTICE LAW AND RULES. ANY RECOVERY FROM A DISTRICT PURSUANT TO THIS SUBDIVISION SHALL BE MADE NOTWITHSTANDING, AND IN ADDITION TO, ANY DISTRICT MEDICAID SHARE AMOUNTS CALCULATED PURSUANT TO SECTION ONE OF THIS PART.

S 23. Subdivision (f) of section 1 of part C of chapter 58 of the laws of 2005, amending the public health law and other laws relating to authorizing reimbursements for expenditures made by social services districts for medical assistance, as amended by section 62 of part C of chapter 58 of the laws of 2007, is amended to read as follows:

(f) Subject to paragraph (g) of this section, the state fiscal year social services district expenditure cap amount calculated for each social services district pursuant to paragraph (d) of this section shall be allotted to each district during that fiscal year and paid to the department in equal weekly amounts in a manner to be determined by the commissioner and communicated to such districts and, SUBJECT TO THE PROVISIONS OF SUBDIVISION FOUR OF SECTION SIX OF THIS PART, shall represent each district's maximum responsibility for medical assistance expenditures governed by this section.

S 24. Subdivision (b) of section 1 of part C of chapter 58 of the laws of 2005, amending the public health law and other laws relating to authorizing reimbursements for expenditures made by social services districts for medical assistance, is amended to read as follows:

(b) Commencing with the period April 1, 2005 though March 31, 2006, a social services district's yearly net share of medical assistance expenditures shall be calculated in relation to a reimbursement base year which, for purposes of this section, is defined as January 1, 2005 through December 31, 2005. The final base year expenditure calculation for each social services district shall be made by the commissioner of health, and approved by the director of the division of the budget, no later than June 30, 2006. Such calculations shall be based on actual

expenditures made by or on behalf of social services districts, and revenues received by social services districts, during the base year and shall be made without regard to expenditures made, and revenues received, outside the base year that are related to services provided during, or prior to, the base year. Such base year calculations shall be based on the social services district medical assistance shares provisions in effect on January 1, 2005. SUBJECT TO THE PROVISIONS OF SUBDIVISION FOUR OF SECTION SIX OF THIS PART, THE STATE/LOCAL SOCIAL SERVICES DISTRICT RELATIVE PERCENTAGES OF THE NON-FEDERAL SHARE OF MEDICAL ASSISTANCE EXPENDITURES INCURRED PRIOR TO JANUARY 1, 2006 SHALL NOT BE SUBJECT TO ADJUSTMENT ON AND AFTER JULY 1, 2006.

S 25. Notwithstanding any inconsistent provision of section 112 or 163 of the state finance law or any other contrary provision of the state finance law or any other contrary provision of law, the commissioner of health may, without a competitive bid or request for proposal process, enter into contracts with one or more certified public accounting firms for the purpose of conducting audits of disproportionate share hospital payments made by the state of New York to general hospitals and for the purpose of conducting audits of hospital cost reports as submitted to the state of New York in accordance with article 28 of the public health law.

S 26. Subdivision 7-a of section 101 of part A of chapter 57 of the laws of 2006, amending the social services law relating to medically fragile children, as amended by section 65 of part C of chapter 58 of the laws of 2008, is amended to read as follows:

7-a. Sections fifty-eight, fifty-eight-a and fifty-eight-b shall take effect January 1, 2007 [and shall expire and be deemed repealed January 1, 2011].

S 27. Paragraph (d) of subdivision 3 of section 367-a of the social services law, as added by chapter 33 of the laws of 1998, subparagraphs 1 and 2 as amended by section 2 of part G of chapter 23 of the laws of 2002, is amended to read as follows:

(d) (1) Beginning April first, two thousand two and to the extent that federal financial participation is available at a one hundred percent federal Medical assistance percentage and subject to sections 1933 and 1902(a)(10)(E)(iv) of the federal social security act, medical assistance shall be available for full payment of medicare part B premiums for individuals (referred to as qualified individuals 1) who are entitled to hospital insurance benefits under part A of title XVIII of the federal social security act and whose income exceeds the income level established by the state and is at least one hundred twenty percent, but less than one hundred thirty-five percent, of the federal poverty level, for a family of the size involved and who are not otherwise eligible for medical assistance under the state plan;

(2) [Beginning April first, two thousand two and to the extent that federal financial participation is available at a one hundred percent federal Medical assistance percentage and subject to sections 1933 and 1902(a)(10)(E)(iv) of the federal social security act, medical assistance shall be available for payment of that portion of the medicare part B premium increase that is attributable to the operation of the amendments made by section 4611(e)(3) of the balanced budget act of 1997, for individuals (referred to as qualified individuals 2) who are entitled to hospital insurance benefits under part A of title XVIII of the federal social security act and whose income exceeds the income level established by the state and is at least one hundred thirty-five percent, but less than one hundred seventy-five percent, of the federal poverty

level, for a family of the size involved and who are not otherwise eligible for medical assistance under the state plan;

(3)] Premium payments for the individuals described in [subparagraphs] SUBPARAGRAPH one [and two] of this paragraph will be one hundred percent federally funded up to the amount of the federal allotment. The department shall discontinue enrollment into the program when the part B premium payments made pursuant to [such paragraphs] SUBPARAGRAPH ONE OF THIS PARAGRAPH meet the yearly federal allotment.

[(4)] (3) The commissioner of health shall develop a simplified application form, consistent with federal law, for payments pursuant to this section. The commissioner of health, in cooperation with the office for the aging, shall publicize the availability of such payments to medicare beneficiaries.

S 28. Section 2 of chapter 33 of the laws of 1998, amending the social services law relating to authorizing payment of medicare part B premiums to certain medicaid recipients, as amended by chapter 415 of the laws of 2008, is amended to read as follows:

S 2. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after January 1, 1998[, provided, however that such provisions shall expire and be deemed repealed December 31, 2010].

S 29. Section 45 of part D of chapter 58 of the laws of 2009 amending the public health law and other laws relating to residential health care facilities is amended to read as follows:

S 45. Notwithstanding any inconsistent provision of law, rule or regulation, the effectiveness of subdivisions 4, 7, 7-a and 7-b of section 2807 of the public health law and section 18 of chapter 2 of the laws of 1988, as they relate to time frames for notice, approval or certification of rates of payment, are hereby suspended and shall, for purposes of implementing the provisions of this act AND THE PROVISIONS OF PARTS B AND C OF THIS CHAPTER, be deemed to have been without any force or effect from and after [November 1, 2007 for such rates effective for the period January 1, 2008 through December 31, 2008] MARCH 1, 2009.

S 30. Subdivision 17 of section 2808 of the public health law, as added by chapter 433 of the laws of 1997, is amended to read as follows:

17. (A) Notwithstanding any inconsistent provision of law or regulation to the contrary, for the period April first, nineteen hundred ninety-seven through March thirty-first, nineteen hundred ninety-eight, the commissioner shall not be required to revise a certified rate of payment established pursuant to this article based on consideration of rate appeals filed by a residential health care facility or based upon adjustments to capital cost reimbursement as a result of approval by the commissioner of an application for construction under section twenty-eight hundred two of this article. For the period April first, nineteen hundred ninety-eight, through March thirty-first, nineteen hundred ninety-nine, the commissioner shall revise certified rates of payment in an aggregate amount not to exceed twenty million dollars, state share medical assistance. In cases where the commissioner determines that a significant financial hardship exists, he or she may, subject to the approval of the director of the budget, consider an exemption to this subdivision. Beginning April first, nineteen hundred ninety-nine and thereafter, the commissioner shall consider such rate appeals within a reasonable period.

(B) NOTWITHSTANDING ANY INCONSISTENT PROVISION OF LAW OR REGULATION TO THE CONTRARY, FOR THE STATE FISCAL YEAR BEGINNING APRIL FIRST, TWO THOU-

SAND TEN AND ENDING MARCH THIRTY-FIRST, TWO THOUSAND ELEVEN, THE COMMISSIONER SHALL NOT BE REQUIRED TO REVISE CERTIFIED RATES OF PAYMENT ESTABLISHED PURSUANT TO THIS ARTICLE FOR RATE PERIODS PRIOR TO APRIL FIRST, TWO THOUSAND ELEVEN, BASED ON CONSIDERATION OF RATE APPEALS FILED BY RESIDENTIAL HEALTH CARE FACILITIES OR BASED UPON ADJUSTMENTS TO CAPITAL COST REIMBURSEMENT AS A RESULT OF APPROVAL BY THE COMMISSIONER OF AN APPLICATION FOR CONSTRUCTION UNDER SECTION TWENTY-EIGHT HUNDRED TWO OF THIS ARTICLE, IN EXCESS OF AN AGGREGATE ANNUAL AMOUNT OF EIGHTY MILLION DOLLARS FOR SUCH STATE FISCAL YEAR. IN REVISING SUCH RATES WITHIN SUCH FISCAL LIMIT, THE COMMISSIONER SHALL, IN PRIORITIZING SUCH RATE APPEALS, INCLUDE CONSIDERATION OF WHICH FACILITIES THE COMMISSIONER DETERMINES ARE FACING SIGNIFICANT FINANCIAL HARDSHIP AS WELL AS SUCH OTHER CONSIDERATIONS AS THE COMMISSIONER DEEMS APPROPRIATE AND, FURTHER, THE COMMISSIONER IS AUTHORIZED TO ENTER INTO AGREEMENTS WITH SUCH FACILITIES OR ANY OTHER FACILITY TO RESOLVE MULTIPLE PENDING RATE APPEALS BASED UPON A NEGOTIATED AGGREGATE AMOUNT AND MAY OFFSET SUCH NEGOTIATED AGGREGATE AMOUNTS AGAINST ANY AMOUNTS OWED BY THE FACILITY TO THE DEPARTMENT, INCLUDING, BUT NOT LIMITED TO, AMOUNTS OWED PURSUANT TO SECTION TWENTY-EIGHT HUNDRED SEVEN-D OF THIS ARTICLE. RATE ADJUSTMENTS MADE PURSUANT TO THIS PARAGRAPH REMAIN FULLY SUBJECT TO APPROVAL BY THE DIRECTOR OF THE BUDGET IN ACCORDANCE WITH THE PROVISIONS OF SUBDIVISION TWO OF SECTION TWENTY-EIGHT HUNDRED SEVEN OF THIS ARTICLE.

S 31. Section 2808 of the public health law is amended by adding a new subdivision 25 to read as follows:

25. RESERVED BED DAYS. (A) FOR PURPOSES OF THIS SUBDIVISION, A "RESERVED BED DAY" IS A DAY FOR WHICH A GOVERNMENTAL AGENCY PAYS A RESIDENTIAL HEALTH CARE FACILITY TO RESERVE A BED FOR A PERSON ELIGIBLE FOR MEDICAL ASSISTANCE PURSUANT TO TITLE ELEVEN OF ARTICLE FIVE OF THE SOCIAL SERVICES LAW WHILE HE OR SHE IS TEMPORARILY HOSPITALIZED OR ON LEAVE OF ABSENCE FROM THE FACILITY.

(B) NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS SECTION OR ANY OTHER LAW OR REGULATION TO THE CONTRARY, FOR RESERVED BED DAYS PROVIDED ON BEHALF OF PERSONS TWENTY-ONE YEARS OF AGE OR OLDER:

(I) PAYMENTS FOR RESERVED BED DAYS SHALL BE MADE AT NINETY-FIVE PERCENT OF THE MEDICAID RATE OTHERWISE PAYABLE TO THE FACILITY FOR SERVICES PROVIDED ON BEHALF OF SUCH PERSON;

(II) PAYMENT TO A FACILITY FOR RESERVED BED DAYS PROVIDED ON BEHALF OF SUCH PERSON FOR TEMPORARY HOSPITALIZATIONS MAY NOT EXCEED FOURTEEN DAYS IN ANY TWELVE MONTH PERIOD;

(III) PAYMENT TO A FACILITY FOR RESERVED BED DAYS PROVIDED ON BEHALF OF SUCH PERSON FOR NON-HOSPITALIZATION LEAVES OF ABSENCE MAY NOT EXCEED TEN DAYS IN ANY TWELVE MONTH PERIOD.

S 32. Section 2808 of the public health law is amended by adding a new subdivision 26 to read as follows:

26. NOTWITHSTANDING ANY INCONSISTENT PROVISION OF LAW, FOR RATE PERIODS ON AND AFTER APRIL FIRST, TWO THOUSAND TEN, RESIDENTIAL HEALTH CARE FACILITY MEDICAID RATES OF PAYMENT SHALL NOT INCLUDE REIMBURSEMENT FOR THE COST OF PRESCRIPTION DRUGS. SUCH REIMBURSEMENT SHALL BE IN ACCORDANCE WITH OTHERWISE APPLICABLE PROVISIONS OF SECTION THREE HUNDRED SIXTY-SEVEN-A OF THE SOCIAL SERVICES LAW.

S 33. Subdivision 2 of section 3616 of the public health law, as amended by chapter 622 of the laws of 1988, is amended to read as follows:

2. Continued provision of a long term home health care program, AIDS home care program or certified home health agency services paid for by government funds shall be based upon a comprehensive assessment of the

medical, social and environmental needs of the recipient of the services. Such assessment shall be performed at least every one hundred [twenty] EIGHTY days by the provider of a long term home health care program, AIDS home care program or the certified home health agency providing services for the patient and the local department of social services, and shall be reviewed by a physician charged with the responsibility by the commissioner. The commissioner shall prescribe the forms on which the assessment will be made.

S 34. Notwithstanding any provision of law or regulation to the contrary, and subject to the availability of federal financial participation, the commissioner of health shall establish procedures to permit long-term home health care programs and providers of other services covered pursuant to federal waivers, or which provide case management services, to collaborate to jointly serve individuals when the services of both entities are necessary to meet such an individual's needs; provided, however, that such entities shall maintain distinct yet coordinated service and case management responsibilities and shall not duplicate benefits.

S 35. Federal-state Medicare shared savings partnership program. Notwithstanding any provision of law to the contrary, the commissioner of health shall seek federal approval for the establishment of a federal-state Medicare shared savings partnership program. Such program may include, among others, the following features: (a) an incentive through shared savings to the state for achieving federal cost-savings and efficiencies to Medicare, such as from reduced expenditures for hospital, long-term care and other medical care provided to beneficiaries eligible for both Medicare and Medicaid, which result from state initiatives in the care and management of such beneficiaries; such incentive shall provide for a reinvestment of a portion of such federal savings into the state's health care system; (b) acceptance of risk by the state for the delivery and financing of Medicare-covered services; and (c) an incentive to permit providers of medical services to share in demonstrated Medicare savings.

S 36. Paragraphs (b) and (c) of subdivision 5 of section 2808 of the public health law, paragraph (b) as added by section 12 of part OO of chapter 57 of the laws of 2008, and paragraph (c) as added by section 11 of part D of chapter 58 of the laws of 2009, are amended to read as follows:

(b) On and after April first, two thousand [eight] TEN, no NON-PUBLIC residential health care facility may withdraw equity or transfer assets which in the aggregate exceed three percent of such facility's total [Medicaid] REPORTED ANNUAL revenue [in any calendar year] FOR PATIENT CARE SERVICES, BASED ON THE FACILITY'S MOST RECENTLY AVAILABLE REPORTED DATA, without prior written notification to the commissioner. Notification shall be made in a form acceptable to the department by certified or registered mail.

(c) Notwithstanding any inconsistent provision of this subdivision, on and after April first, two thousand [nine] TEN, no non-public residential health care facility, whether operated as A for-profit facility or as a not-for-profit facility, may withdraw equity or transfer assets which in the aggregate exceed three percent of such facility's total [Medicaid] REPORTED ANNUAL revenue [in the prior calendar year] FOR PATIENT CARE SERVICES, BASED ON THE FACILITY'S MOST RECENTLY AVAILABLE REPORTED DATA, without the prior written approval of the commissioner. The commissioner shall make a determination to approve or disapprove a request for withdrawal of equity or assets under this subdivision within

sixty days of the date of the receipt of a written request from the facility. Requests shall be made in a form acceptable to the department by certified or registered mail. In reviewing such requests the commissioner shall consider the facility's overall financial condition, any indications of financial distress, whether the facility is delinquent in any payment owed to the department, whether the facility has been cited for immediate jeopardy or substandard quality of care, and such other factors as the commissioner deems appropriate. In addition to any other remedy or penalty available under this chapter, and after opportunity for a hearing, the commissioner may require replacement of the withdrawn equity or assets and may impose a penalty for violation of the provisions of this subdivision in an amount not to exceed ten percent of any amount withdrawn without prior approval.

S 36-a. Subdivision 1 of section 367-w of the social services law as added by section 29 of part D of chapter 58 of the laws of 2009, is amended to read as follows:

1. Notwithstanding any provision of law to the contrary, the department of health is authorized to establish a demonstration program, which shall be three years in duration, under which the department shall designate [two] ONE OR MORE long-term care assessment centers[, the first of which shall] TO be established in [a] AND TOGETHER SERVE AN ENTIRE county within the city of New York and [the second of which will] SHALL DESIGNATE A LONG TERM CARE ASSESSMENT CENTER TO be established in another region consisting of one or more contiguous counties elsewhere in the state. Such centers shall serve the purpose of transferring from the social services district to the regional long-term care assessment centers responsibility for activities related to the assessment of a person's need for, and the authorization of, long-term care services and programs identified in subdivisions two, three and four of this section. The department is authorized to contract with one or more entities WITHIN EACH COUNTY to operate regional long-term care assessment centers.

S 37. Notwithstanding any inconsistent provision of law, rule or regulation, for purposes of implementing the provisions of the public health law and the social services law, references to titles XIX and XXI of the federal social security act in the public health law and the social services law shall be deemed to include and also to mean any successor titles thereto under the federal social security act.

S 38. Notwithstanding any inconsistent provision of law, rule or regulation, the effectiveness of the provisions of sections 2807 and 3614 of the public health law, section 18 of chapter 2 of the laws of 1988, and 18 NYCRR 505.14(h), as they relate to time frames for notice, approval or certification of rates of payment, are hereby suspended and without force or effect for purposes of implementing the provisions of this act.

S 39. Severability clause. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

S 40. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2010, provided that:

(a) sections two, three, three-a, three-b, three-c, three-d, three-e and twenty-one of this act shall take effect July 1, 2010; sections fifteen, sixteen, seventeen, eighteen and nineteen of this act shall take effect January 1, 2011; and provided further that section twenty of this act shall be deemed repealed four years after the date the contract entered into pursuant to section 365-h of the social services law, as amended by section twenty of this act, is executed; provided that the commissioner of health shall notify the legislative bill drafting commission upon the execution of the contract entered into pursuant to section 367-h of the social services law in order that the commission may maintain an accurate and timely effective data base of the official text of the laws of the state of New York in furtherance of effectuating the provisions of section 44 of the legislative law and section 70-b of the public officers law;

(b) any rules or regulations necessary to implement the provisions of this act may be promulgated and any procedures, forms, or instructions necessary for such implementation may be adopted and issued on or after the date this act shall have become a law;

(c) this act shall not be construed to alter, change, affect, impair or defeat any rights, obligations, duties or interests accrued, incurred or conferred prior to the effective date of this act;

(d) the commissioner of health and the superintendent of insurance and any appropriate council may take any steps necessary to implement this act prior to its effective date;

(e) notwithstanding any inconsistent provision of the state administrative procedure act or any other provision of law, rule or regulation, the commissioner of health and the superintendent of insurance and any appropriate council is authorized to adopt or amend or promulgate on an emergency basis any regulation he or she or such council determines necessary to implement any provision of this act on its effective date;

(f) the provisions of this act shall become effective notwithstanding the failure of the commissioner of health or the superintendent of insurance or any council to adopt or amend or promulgate regulations implementing this act;

(g) the amendments to subdivision 8 of section 272 of the public health law made by section five of this act shall not affect the repeal of such section and shall be deemed repealed therewith;

(h) the amendments to subparagraph (ii) of paragraph (b) of subdivision 9 of section 367-a of the social services law made by section seven of this act shall not affect the expiration of such subdivision and shall be deemed to expire therewith;

(i) the amendments to subdivision 7 of section 2510 of the public health law made by section twenty-one of this act shall not affect the expiration of such subdivision and shall be deemed to expire therewith; and

(j) the amendments made to paragraph (d) of subdivision 18 of section 2807-c of the public health law by section three-d of this act shall not affect the expiration of such paragraph and shall be deemed to expire therewith.

PART C

Section 1. The sum of four hundred two million seven hundred ninety-seven thousand dollars ($402,797,000), or so much thereof as shall be necessary, and in addition to amounts previously appropriated by law, is hereby made available, in accordance with subdivision 1 of section 380

of the public authorities law as amended, according to the following schedule. Payments pursuant to subdivision (a) of this section shall be made available as moneys become available for such payments. Payments pursuant to subdivisions (b) and (c) of this section shall be made available on the fifteenth day of June, September, December and March or as soon thereafter as moneys become available for such payments. No moneys of the state in the state treasury or any of its funds shall be available for payments pursuant to this section:

SCHEDULE

(a) Thirty-nine million seven hundred thousand dollars ($39,700,000) to municipalities for repayment of eligible costs of federal aid municipal street and highway projects pursuant to section 15 of chapter 329 of the laws of 1991, as added by section 9 of chapter 330 of the laws of 1991, as amended. The department of transportation shall provide such information to the municipalities as may be necessary to maintain the federal tax exempt status of any bonds, notes, or other obligations issued by such municipalities to provide for the non-federal share of the cost of projects pursuant to chapter 330 of the laws of 1991 or section 80-b of the highway law.

The program authorized pursuant to section 15 of chapter 329 of the laws of 1991, as added by section 9 of chapter 330 of the laws of 1991, as amended, shall additionally make payments for reimbursement according to the following schedule:

State Fiscal Year	Amount
2010-11	$39,700,000

(b) Three hundred four million three hundred thousand dollars ($304,300,000) to counties, cities, towns and villages for reimbursement of eligible costs of local highway and bridge projects pursuant to sections 16 and 16-a of chapter 329 of the laws of 1991, as added by section 9 of chapter 330 of the laws of 1991, as amended. For the purposes of computing allocations to municipalities, the amount distributed pursuant to section 16 of chapter 329 of the laws of 1991 shall be deemed to be $121,520,000. The amount distributed pursuant to section 16-a of chapter 329 of the laws of 1991 shall be deemed to be $182,780,000. Notwithstanding the provisions of any general or special law, the amounts deemed distributed in accordance with section 16 of chapter 329 of the laws of 1991 shall be adjusted so that such amounts will not be less than 83.807 percent of the "funding level" as defined in subdivision 5 of section 10-c of the highway law for each such municipality. In order to achieve the objectives of section 16 of chapter 329 of the laws of 1991, to the extent necessary, the amounts in excess of 83.807 percent of the funding level to be deemed distributed to each municipality under this subdivision shall be reduced in equal proportion.

(c) Fifty-eight million seven hundred ninety-seven thousand dollars ($58,797,000) to municipalities for reimbursement of eligible costs of local highway and bridge projects pursuant to sections 16 and 16-a of chapter 329 of the laws of 1991, as added by section 9 of chapter 330 of the laws of 1991, as amended. For the purposes of computing allocations to municipalities, the amount distributed pursuant to section 16 of chapter 329 of the laws of 1991 shall be deemed to be $23,480,000. The amount distributed pursuant to section 16-a of chapter 329 of the laws of 1991 shall be deemed to be $35,317,000. Notwithstanding the provisions of any general or special law, the amounts deemed distributed in accordance with section 16 of chapter 329 of the laws of 1991 shall be adjusted so that such amounts will not be less than 16.193 percent of

the "funding level" as defined in subdivision 5 of section 10-c of the highway law for each such municipality. In order to achieve the objectives of section 16 of chapter 329 of the laws of 1991, to the extent necessary, the amounts in excess of 16.193 percent of the funding level to be deemed distributed to each municipality under this subdivision shall be reduced in equal proportion. To the extent that the total of remaining payment allocations calculated herein varies from $58,797,000, the payment amounts to each locality shall be adjusted by a uniform percentage so that the total payments equal $58,797,000.

The program authorized pursuant to sections 16 and 16-a of chapter 329 of the laws of 1991, as added by section 9 of chapter 330 of the laws of 1991, as amended, shall additionally make payments for reimbursement according to the following schedule:

State Fiscal Year	Amount
2010-11	$363,097,000

S 2. Subdivision (b) of section 11 of chapter 329 of the laws of 1991, amending the state finance law and other laws relating to the establishment of the dedicated highway and bridge trust fund, as amended by section 49 of part PP of chapter 56 of the laws of 2009, is amended to read as follows:

(b) Any service contract or contracts for projects authorized pursuant to sections 10-c, 10-f, 10-g and 80-b of the highway law and section 14-k of the transportation law, and entered into pursuant to subdivision (a) of this section, shall provide for state commitments to provide annually to the thruway authority a sum or sums, upon such terms and conditions as shall be deemed appropriate by the director of the budget, to fund, or fund the debt service requirements of any bonds or any obligations of the thruway authority issued to fund such projects having a cost not in excess of [$5,860,800,000] $6,286,660,000 cumulatively by the end of fiscal year [2009-10] 2010-2011.

S 3. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2010.

PART D

Section 1. Subdivision 3 of section 79-b of the navigation law, as separately amended by chapters 768 and 805 of the laws of 1992, is amended to read as follows:

3. The amount of state aid to be allocated to eligible governmental entities pursuant to this article shall be determined by the commissioner as hereinafter provided. [He] THE COMMISSIONER shall determine the percentage proportion which the authorized expenditures of each individual entity, not exceeding four hundred thousand dollars for each county including municipalities therein, shall bear to the total authorized expenditures of all entities. Such percentage proportion shall then be applied against an amount equal to [three-quarters] ONE-HALF of the total of the amount received by the state in each preceding program year in [fees] VESSEL REGISTRATION FEES AS PROVIDED IN SECTION TWENTY-TWO HUNDRED FIFTY-ONE OF THE VEHICLE AND TRAFFIC LAW, less no more than thirty percent, subject to appropriation, which may be used by the commissioner and the commissioner of motor vehicles for administrative costs of the program, including training and equipment, and by the department of environmental conservation, the division of state police and other state agencies, subject to the approval of the commissioner, for the purposes of this article [for the registration of vessels], plus the entire amount received pursuant to subdivision nine of section

forty-four of this chapter. The amount thus determined shall constitute the maximum amount of state aid to which each such entity shall be entitled; provided, however, that no entity shall receive state aid in an amount in excess of [seventy-five] FIFTY percent of its authorized expenditures as approved by the commissioner for such program year. The commissioner shall certify to the comptroller the amount thus determined for each eligible local governmental entity as the amount of state aid to be apportioned to such eligible local governmental entity. The allocation of state aid to any county, town or village within the Lake George park shall not be reduced because of the allocation of state aid to the Lake George park commission. Of the remaining funds received by the state for the registration of vessels AS PROVIDED IN SECTION TWENTY-TWO HUNDRED FIFTY-ONE OF THE VEHICLE AND TRAFFIC LAW, no less than six percent shall be made available to the commissioner for the expenses of the office in providing navigation law enforcement training and administering the provisions of this section.

S 2. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2010.

PART E

Section 1. Paragraph (c) of subdivision 6 of section 529 of the executive law, as added by chapter 906 of the laws of 1973, is amended to read as follows:

(c) The [director] COMMISSIONER of the [division for youth] OFFICE OF CHILDREN AND FAMILY SERVICES, subject to the approval of the director of the budget and certification to the [chairmen] CHAIRS of the senate finance and assembly ways and means committees, may establish a single per diem rate for all [division] OFFICE facilities or may establish separate rates as may be appropriate to reflect the differentials in cost of specific [division] OFFICE programs INCLUDING MAKING ANY ADJUSTMENTS TO THE COSTS INCLUDED IN DETERMINING SUCH RATES TO REFLECT ANY CHANGES IN FEDERAL FUNDING MADE AVAILABLE TO THE OFFICE OR TO SOCIAL SERVICES DISTRICTS FOR SUCH COSTS.

S 2. Subdivision 9 of section 529 of the executive law, as added by section 2 of part G of chapter 57 of the laws of 2007, is amended to read as follows:

9. All reimbursement made by social services districts for care, maintenance and supervision under this section shall be paid directly to the state through the office of children and family services for deposit into a miscellaneous special revenue fund known as the youth facility per diem account. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, IF A SOCIAL SERVICES DISTRICT FAILS TO PROVIDE REIMBURSEMENT TO SUCH OFFICE WITHIN SIXTY DAYS OF RECEIVING A BILL FOR SUCH SERVICES OR BY THE DATE CERTAIN SET BY THE OFFICE FOR PROVIDING SUCH REIMBURSEMENT, WHICHEVER IS LATER, THE OFFICES OF THE DEPARTMENT OF FAMILY ASSISTANCE ARE AUTHORIZED TO EXERCISE THE STATE'S SET-OFF RIGHTS BY WITHHOLDING ANY AMOUNTS DUE AND OWING TO SUCH DISTRICT FROM SUCH OFFICE UNDER THIS ARTICLE OR THE SOCIAL SERVICES LAW UP TO THE AMOUNTS DUE AND OWING TO THE STATE UNDER THIS SECTION AND TRANSFERRING SUCH FUNDS TO THE YOUTH FACILITIES PER DIEM ACCOUNT.

S 3. Notwithstanding any law to the contrary, and in accordance with section 4 of the state finance law, the comptroller is hereby authorized and directed to transfer, upon request of the director of the budget, on or before March 31, 2011, up to $27,000,000 from the miscellaneous

special revenue fund (339), youth facility per diem account (YF), to the general fund.

S 4. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2010; provided, however, that the provisions of section one of this act shall apply to all per diems established by the office of children and family services for office programs for the 2002 calendar year and thereafter; provided further, however, that the provisions of section two of this act shall apply to all outstanding reimbursements due by social services districts to the office of children and family services on or before April 1, 2010 and thereafter; and provided further that this act shall expire and be deemed repealed April 1, 2013.

PART F

Section 1. Subdivision 5 of section 97-rrr of the state finance law, as amended by section 13 of part PP of chapter 56 of the laws of 2009, is amended to read as follows:

5. Notwithstanding the provisions of section one hundred seventy-one-a of the tax law, as separately amended by chapters four hundred eighty-one and four hundred eighty-four of the laws of nineteen hundred eighty-one, or any other provisions of law to the contrary, during the fiscal year beginning April first, two thousand [nine] TEN, the state comptroller is hereby authorized and directed to deposit to the fund created pursuant to this section from amounts collected pursuant to article twenty-two of the tax law and pursuant to a schedule submitted by the director of the budget, up to [$3,524,450,000] $496,624,180, as may be certified in such schedule as necessary to meet the purposes of such fund for the fiscal year beginning April first, two thousand [nine] TEN.

S 2. This act shall take effect immediately; provided, however, that the amendments to subdivision 5 of section 97-rrr of the state finance law made by this act shall not affect the expiration of such subdivision and shall be deemed to expire therewith.

S 2. Severability clause. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

S 3. This act shall take effect immediately provided, however, that the applicable effective date of Parts A through F of this act shall be as specifically set forth in the last section of such Parts.